7/1

POWER OF THE PURSE IN FOREIGN POLICY

99th Congress

LC 14.19:

CONGRESSIONAL RESEARCH SERVICE REVIEW

January 1986

NEWARK PUBLIC LIBRARY
JAN 21 1986
U.S. GOVT. PUBS.
DEPOSITORY 325

CONSTITUTIONALITY OF POLITICAL GERRYMANDERING

FEDERAL AID TO SCHOOLS

SOCIAL WELFARE BUDGET PROPOSALS

INFANT MORTALITY

DEMOGRAPHIC CHANGES AND HOUSING NEEDS

NATURAL GAS DEREGULATION

AUTOMOBILE SAFETY RESEARCH AND DEVELOPMENT

PROTECTING CONGRESS

V. 7 No. 1

ELLEN C. COLLIER

THE POWER OF THE PURSE IN FOREIGN POLICY

The power of the purse has become the most potent tool of Congress for shaping foreign policy. This was vividly illustrated when Congress prohibited the use of funds to finance combat activities by U.S. military forces "in or over or from off the shores of North Vietnam, South Vietnam, Laos or Cambodia" after August 15, 1973. In innumerable other budget actions, many of which are little noted, Congress also shapes, constrains, and redirects foreign policy.

Focus on the occasional dramatic congressional action can obscure understanding of the multiple budget-related procedures Congress can use to influence foreign policy. The budget, authorizing, appropriating, and taxing cycles offer distinctive kinds of opportunities and limitations for congressional influence. Understanding how these cycles work is important, whether one wants to strengthen or constrain this influence.

The use of the power of the purse to influence foreign policy is inevitably controversial. Budget legislation often seems like a blunt instrument to many in the foreign policy community who stress the need for flexibility, adaptability, and subtlety. Executive efforts to override or modify the congressional will expressed in the budget process may lead to further congressional efforts to close loopholes and make legislation more explicit, and tensions may escalate. Understanding the congressional budget process can, however, help all concerned parties to make it work more effectively.

The Congressional Research Service Review
Library of Congress
Washington, D.C. 20540

Gilbert Gude—*Director*,
Congressional Research Service

A. A. Hoehling—*Editor*, CRS Review

The CRS REVIEW is a professional journal for the United States Congress and its legislative staff. It is published ten times a year to provide the congressional community analytical articles on substantive public policy issues. The Congressional Research Service (CRS) serves Congress in its legislative and oversight responsibilities.

CRS is a separate department of the Library of Congress which analyzes and evaluates legislative proposals pending before Congress or recommended to it by the President and executive agencies.

The CRS Review is distributed to Members of Congress, their staffs, congressional committees, and other offices of the legislative branch. It is also available through GPO stores.

NO. ISSN 0193–8029

Problems and Process in Congressional Funding

Special problems relating to foreign policy

Seven features of foreign policy process create special problems in using the power of the purse.

1) *Rapidly changing world events*—Events in other countries are usually outside the control of the United States. The Government needs reasonable flexibility in meeting those events.

2) *Foreign policy not dependent on money*—Programs requiring money may not be major instruments of policy toward some countries so Congress may have fewer sources of leverage than in domestic policy.

3)*Commitments by executive branch*—On occasion executive branch officials agree with foreign officials to undertake an activity that costs money before Congress has authorized or appropriated the funds. Congress is then faced with the choice of providing promised funds or embarrassing the President or other executive branch officials, and of risking that the United States will be perceived abroad as unreliable or divided.

4) *Secret and contingency funds*—The need for secrecy and confidentiality in diplomacy occasionally conflicts with the need for congressional control over, and openness in the use of funds. Congress regularly provides some funds to the President that do not have to be publicly accounted for or that are for purposes kept secret from the public.

5) *Unpopularity of some foreign programs*—The common perception among Members of Congress that voters generally dislike foreign aid has made it more difficult in recent years to pass separate bills containing foreign aid funds, although spending programs in the domestic field are often very popular.

6) *Influencing foreign governments*—On domestic matters, Congress can influence policy directly with its funding decisions because the laws it passes are binding within the United States. But U.S. laws are not ordinarily binding in other countries or on foreign governments. Congress can only work indirectly to persuade other countries to adopt a certain course.

7) *Participation in multilateral and international organizations*—Multilateral and international institutions are run by all their members, not the United States alone. The amounts international organizations spend, and the portion that is assessed to the United States are determined according to the voting procedures of each organization. Since many international organizations have a one-nation, one-vote policy, as the number of members has increased, U.S. control over their budget decisions has decreased. Some object that congressional restrictions on the U.S. assessments place the United States in violation of its international obligations. Others contend that such restrictions promote greater financial responsibility within the organizations.

The congressional funding process

To deal with these problems, it is important to understand the foreign policy aspects of four main phases of the budget process that offer separate opportunities for Congress to shape foreign policy:

(1) the budget resolutions,
(2) authorizations,
(3) appropriations, and
(4) revenue raising.

In each phase the center of power within Congress shifts to different committees.

Another phase not discussed here is the oversight of expenditures. Still another phase could be added by the Gramm-Rudman-Hollings Deficit Reduction Act (P.L. 99-177, approved Dec. 12, 1985). It contains a procedure to reduce the budget to meet prescribed deficit targets.

The budget resolutions and foreign policy

The budget resolutions provide Congress an opportunity to establish priorities among competing needs. The budget presented by the President is divided into 21 broad categories called functions, and the budget resolutions allocate funds among the various budget functions. Most of the foreign policy and national security agencies and programs fall into two categories, National Defense (function 050) and International Affairs (function 150).

The greatest foreign policy impact of the budget phase in recent years has been in the "guns versus butter" determination of how much of the budget to allot to defense compared to other needs. In this phase attention is focused more on defense than on other expenditures affecting international relations because of the much greater amount of money involved. Funding for national defense represents a compartively large part of the Federal budget, while funding for international affairs represents a comparatively small part.

Outlays for fiscal year 1984 for the National Defense Function were $227.4 billion, or 26 percent, out of a total of $851.8 billion. Outlays for the international affairs function were $15.9 billion, or less than 1.9 percent of which $12.4 billion were for foreign economic and military assistance. (See chart.)

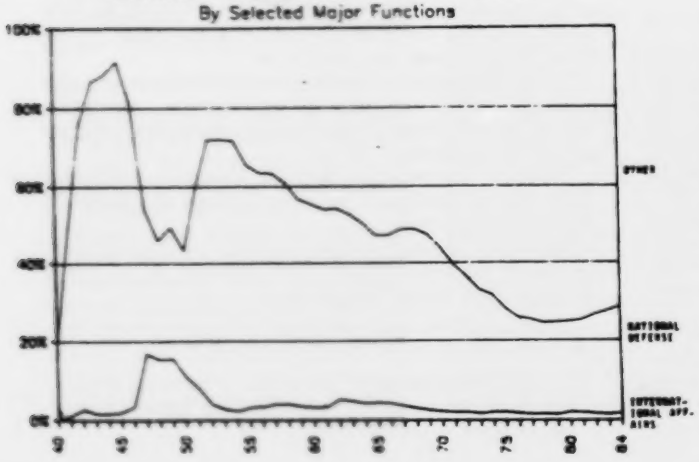
Budget resolutions affect the size of broad categories rather than individual programs. They present aggregate totals for the various functions but leave it to the authorizing and appropriations committees to apportion the total among individual programs.

Authorizations and foreign policy

Authorizing legislation establishes policies and programs, empowers and directs the executive branch to undertake certain actions, and authorizes appropriations for these purposes. It does not actually appropriate funds and thus make them available to the executive branch. Periodic bills authorizing appropiations for an agency or program offer committees means for effective oversight and opportunities to revise the basic legisla-

BUDGET OUTLAYS, 1940 – 1984

By Selected Major Functions



READEX FICHE best copy available

tion. Almost all committees now have some legislation relating to foreign policy in their jurisdiction.

At one time, most authorizations for appropriations were permanent. Beginning in the 1950s, however, Congress gradually limited the duration of many authorizations, requiring annual or periodic reauthorization for foreign aid, foreign affairs agencies, and most of the Defense Department budget.

Some observers became concerned when Congress failed to pass separate authorization bills for foreign assistance in 1983 and 1984 and made foreign assistance appropriations by means of continuing resolutions. In those years the House Foreign Affairs and Senate Foreign Relations Committees, and Members of Congress generally, did not have one of their most effective vehicles for influencing the foreign aid program. In 1985, however, Congress passed a bill authorizing $12.77 billion in foreign aid for each of fiscal years 1986 and 1987.

Appropriations and foreign policy

The Constitution requires that Congress appropriate funds before the executive branch spends them. In appropriating funds, Congress makes them available for obligation by Government agencies and authorizes the Treasury to make payments for the purposes designated. Thus in the appropriations phase Congress actually determines the level of funding to provide for various agencies and programs.

The most significant limitation on appropriations as a foreign policy vehicle is a rule against substantive legislation in an appropriations bill. The rules of both Houses, as well as several statutes regarding specific programs, require that appropriations be authorized by law, and the House rules prohibit provisions in general appropriations bills from changing existing law. These limitations have sometimes been waived or ignored. Nevertheless, any substantive provision in an appropriation bill is usually valid only for the fiscal year to which the appropriation applies unless it explicitly states otherwise.

The executive branch could not conduct foreign policy without appropriations for agencies to pay the salaries of employees and the costs of any programs. Congress basically supports U.S. foreign policy through its appropriations but generally trims the amounts requested. Foreign aid appropriations have consistently been less than the Administration request, and sometimes substantially less.

Revenue and foreign policy

Potentially as important to foreign policy as the spending side of the purse is the revenue side. Congress regularly helps shape foreign economic policy through tariff and tax legislation and sometimes influences other aspects of foreign policy as well. Even when primarily directed at domestic problems, tax and tariff actions often have an impact on other countries that affects U.S. relations. Tarriff and trade legislation is useful in shaping relations with allies and Communist nations alike, and can also serve as an alternative or supplement to foreign assistance to less developed countries.

The amount of money raised from tariffs or other foreign transactions is no longer significant as a source of revenue for the United States in comparison with domestic taxation. For the first half of American history, until the 1890s, customs revenue provided more than half the government receipts. In recent years customs duties on imports have provided less than 2 percent of Federal receipts. In 1985 duties provided $11.3 billion out of total receipts of $666 billion.

One of the best-known cases of the use of tariff legislation to influence foreign policy in an area not directly related to trade was the Jackson-Vanik amendment to the Trade Act of 1974. The amendment barred trade concessions to the Soviet Union unless it permitted free emigration of Jewish citizens, and soon afterward the Soviet Union refused to put a newly negotiated trade agreement into effect.

The congressional power to affect foreign policy through trade and tariff measures has become apparent again in 1985. Numerous approaches are under consideration that would strengthen the competitive position of U.S. producers against foreign imports by restricting imports of certain goods into the United States. Bills have been introduced that would impose a tariff surcharge on articles imported from Japan and establish country-by-country quotas for imports of textile products. In acting on these measures, Congress not only must weigh competing arguments on the economic impact of such measures, but must also consider their possible foreign policy impact.

Conclusion

The power of the purse to influence foreign policy is much broader than many realize.

Through its budget resolutions Congress sets priorities among competing domestic, international, and defense needs.

Through authorization legislation Congress sets a ceiling on amounts to be provided and shapes foreign policy through findings and policy statements, directives, prohibitions, and conditions.

Through appropriations legislation Congress actually provides funds and may grant, increase, decrease, refuse, or attach additional conditions to funds for an agency or program.

Through its revenue process Congress regulates international trade and balances foreign and domestic economic concerns.

Taking all these phases as a whole, Congress influences policy toward virtually every country in the world through its power of the purse.

Ellen C. Collier is a specialist in U.S. foreign policy, Foreign Affairs and National Defense Division.

See also Report 85-182 F. The Power of the Purse in Foreign Policy: Process and Problems in Congressional Funding, by Ellen C. Collier, Sept. 4, 1985

THOMAS M. DURBIN

CONSTITUTIONALITY OF POLITICAL GERRY-MANDERING: *DAVIS* V. *BANDEMER*

I. *Introduction*

One of the major political cases before the Supreme Court during its 1985-1986 term is the case of *Davis* v. *Bandemer*[1] involving the constitutionality of gerrymandering. Gerrymandering is the process of drawing congressional and/or State legislative district boundaries to suit the purpose of a particular political party. "Gerrymander" is defined as...the process of dividing a State...into the authorized civil or political divisions but with such a geographical arrangement...to secure a majority for a given political party in districts where the results would be otherwise if they were divided according to obvious natural lines.[2]

At issue in *Davis* v. *Bandemer* is the constitutionality of the gerrymandering of State legislative districts in Indiana but not the gerrymandering of congressional districts.[3] Depending on the outcome of the Indiana State legislative redistricting case, the issue of the gerrymandering of congressional districts may soon be before the Supreme Court also. The Indiana State legislative gerrymandering case began after the 1982 general elections in which the Indiana Democratic candidates for the Indiana House won 51.9 percent of all the votes cast but gained only 43 percent of the House seats.[4]

Lawsuits were filed by Indiana Democrats challenging the unconstitutionality of the Indiana House redistricting plan that was drawn up by Indiana Republicans after the 1980 decennial census. The plaintiffs alleged unconstitutional political gerrymandering and reapportionment of the Indiana House districts and asserted that the adopted redistricting plan violated the Equal Protection Clause of the Fourteenth Amendment. On December 13, 1984, a three-judge Federal District Court in *Bandemer* v. *Davis* held that the Republican State officials had violated the Equal Protection Clause of the Fourteenth Amendment by drafting the Indiana House redistricting plan in a manner that diluted the plantiffs' voting strength as Democrats.[5] The State of Indiana appealed to the United States Supreme Court which agreed to hear the case on March 25, 1985. Oral arguments were made before the Supreme Court on October 7, 1985.

II. *Analysis Of The Three-Judge Court Ruling In Bandemer v. Davis, 603 F. Supp. 1479 (S.D. IND. 1985)*

The three-judge court ruling asserted that the constitutionality of a State legislative reapportionment is based on the Equal Protection clause as it was applied in *Reynolds* v. *Sims*[6] and the subsequent cases concerning State legislative reapportionment and redistricting that followed *Reynolds*. The *Reynolds* Court found that the Equal Protection Clause of the Fourteenth Amendment requires the State to make honest and good faith efforts to construct State legislative districts which would be as nearly of equal population as practicable but that mathematical exactness may be a practical impossibility.

However, any deviation from mathematical exactness and the equal population principle had to be justified.[7] At issue in many of the State legislative redistricting cases subsequent to the *Reynolds* decision was whether or not any deviations from the equal-population principle were *de minimis* and unavoidable, and thus they would not be unconstitutional in violation of the Equal Protection Clause.

The three-judge court held that in relevant districts in Indiana, the proportionate voting influence of the plaintiffs was adversely affected by the redistricting plan and that there was *prima facie* evidence of gerrymandering. The court ruled that evidence of gerrymandering can be found in the shapes of district configurations. Dramatically irregular shapes of districts and bizarre configurations of districts require justifications and may be symptomatic of illegitimate gerrymandering.[8] It was noted that the lack of compactness of the legislative districts in the Indiana plan was indicative of the fact that partisan considerations were considered in drafting the plan. Also, the fact that traditional political subdivisions were conspicuously ignored and dissected into abstract configurations by the drafters of the reapportionment plan indicated possible gerrymandering.[9]

The court also noted that the redistricting plan was wholly the product of the majority (Republican) party. It was only in the latter part of legislative session that the details of the redistricting plan were revealed to the minority (Democratic) party. The court concluded that the minority party was intentionally precluded from any participation in drafting Indiana's redistricting plan.

Moreover, it was determined that the State of Indiana was unable to show that the redistricting plan was supported by acceptable neutral criteria. Accordingly, the court found that the *Bandemer* plaintiffs were intentionally discriminated against by the 1981-82 reapportionment of Indiana legislative districts.[10]

III. *Concurring Opinion Of Justice John Paul Stevens In Karcher* v. *Daggett, 462 U.S. 725 (1983)*

The United States Supreme Court has not yet directly decided the constitutionality of political gerrymandering either for congressional or State legislative redistricting or reapportionment. However, in 1983 in a concurring opinion, Justice John Paul Stevens in *Karcher* v. *Daggett*, declared that the New Jersey congressional redistricting plan violated the Equal Protection Clause.[11] The three-judge court in *Bandemer* v. *Davis* noted that it had been persuaded by the analysis of political gerrymandering in Justice Steven's concurring opinion in the *Karcher* case in so finding that Indiana's legislative redistricting plan violated the Equal Protection Clause.[12]

In his concurring opinion in *Karcher*, Justice Stevens concluded that the Equal Protection Clause

requires every State to govern impartially and that this requirement is applicable when States determine electoral boundaries. Moreover, the numerical equality standard is not a sufficient guarantee of equal representation in regard to redistricting plans since it fails to take into account other relevant and important criteria which relate to the fairness of group participation in the electoral process.[13]

Justice Stevens noted that, when plaintiffs challenge a State reapportionment and redistricting plan as violative of the Equal Protection Clause due to discriminatory political gerrymandering, they would have to show the following:

(1) that they are members of an identifiable political group whose voting strength has been diluted;

(2) that in relevant districts or in the State as a whole, their proportionate voting influence has been adversely affected by such a redistricting plan; and

(3) that they must make a *prima facie* rebuttable presumption of discriminatory political gerrymandering.[14] According to Justice Stevens, *prima facie* evidence of discriminatory political gerrymandering can be presented in certain ways:

(1) by the shape of district configurations;

(2) by substantial divergences from the geographical compactness of districts;

(3) by extensive deviations from established political boundaries of political units such as townships, cities, and counties; and

(4) by a procedural standard whereby the process for drafting a redistricting and reapportionment plan excluded minority participation and divergent viewpoints and openly reflected the use of partisan criteria in drafting the plan. Consequently, if a State is unable to respond to such a *prima facie* showing of discriminatory political gerrymandering by proving that the redistricting and reapportionment plan is supported by adequate neutral criteria, then the plan may be found invalid under the Equal Protection Clause.[15]

Also, mention should be made of the dissenting opinion of Justice Lewis Powell in the *Karcher* decision in which he expressed some additional thoughts on political gerrymandering. Justice Powell noted that gerrymandering presents a greater potential threat to equality of representation than the failure to adhere to precise mathematical standards. Injuries that result from gerrymandering may rise to constitutional dimensions and violate the Equal Protection Clause, according to Justice Powell. Moreover, he asserted that the constitutional mandate of fair and effective representation proscribes reapportionment and redistricting plans that have the purpose and effect of substantially disenfranchising and discriminating against certain identifiable groups of voters.[16]

IV. *Issues Before The Supreme Court in Davis* v. *Bandemer (U.S. Sup. Ct. Doc. No. 84-1244)*

In the *Davis* v. *Bandemer*[17] case which is now before the United States Supreme Court and in which oral arguments were heard on October 7, 1985, the constitutionality of alleged discriminatory political gerrymandering may now be decided by the Court. Some of the issues before the Court are:

(1) whether or not the 1981-1982 Indiana State legislative reapportionment plan can be found unconstitutional because of the finding of political gerrymandering;

(2) whether or not the lower three-judge court in addressing the claim of political gerrymandering refused to follow the line of Supreme Court decisions concerning State legislative reapportionment and redistricting; and

(3) whether or not there is unconstitutional political gerrymandering when the lower court finds that political proportional representation is not required and does not find what representation for a minority party is required.[18]

Furthermore, the State of Indiana in its appeal to the Supreme Court argues:

(1) that the legislative redistricting plan complies with the one-person, one-vote standard and does not discriminate on the basis of race and

(2) that all other issues such as that of political gerrymandering are political questions outside the scope of federal judicial power.

Moreover, the *Davis* v. *Bandemer* case has created some unusual political alliances. For example, the Republican National Committee has filed an *amicus curiae* brief on the side of the Indiana Democrats who are the plaintiffs. The California Democratic congressional delegation and the California Democratic-controlled Senate and Assembly have sided with the Indiana Republicans by filing briefs in support of the Indiana-Republican drawn State legislative reapportionment plan.[19]

The term "gerrymander" originated in 1812 when an odd-shaped congressional district in Massachusetts was created by the Massachusetts Legislature which resembled a salamander but which was, in a play on words, referred to as a gerrymander thereby naming the political manipulation after Elbridge Gerry who was the Governor of Massachusetts at that time.[3]

Should the Supreme Court find discriminatory political gerrymandering unconstitutional, it is possible that such a decision might encourage the adversely affected party in a gerrymandering situation to go to court. For example, the Republican Party might feel encouraged to file lawsuits in certain States regarding political gerrymandering of congressional districts since in the 1984 general election, Republican congressional candidates won approximately 50 percent of the popular vote in congressional races nationwide but won less than 42 percent of the House seats.[20]

The Democrats assert that this situation long predates the 1980 Census and that subsequent redistricting, and has not worsened for the Republicans since 1980. Challenges, for example, possibly might be made by Republicans seeking "more equitable" district lines in the following States: California, Texas Oklahoma, Illinois, Michigan, Pennsylvania, Indiana, Massachusetts, and Tennessee.[21] However, it is extremely diffi-

DAVID ACKERMAN
WAYNE RIDDLE

Chapter 1 of the "Education Consolidation and Improvement Act of 1981" provides Federal assistance to State and local educational agencies to meet the special educational needs of disadvantaged children. The program since its inception in 1965 (as Title I of the Elementary and Secondary Education Act) has required that services be provided to eligible children attending both public and nonpublic schools, including nonpublic sectarian schools. However, on July 1, 1985, the Supreme Court in *Aguilar* v. *Felton*, 105 S. Ct. 3232 held the provision of instructional services under chapter 1 on the premises of nonpublic sectarian schools to be unconstitutional. Because that method of providing services to eligible children in sectarian schools has been the method most commonly employed under chapter 1, the decision has occasioned considerable difficulty in affected school districts.

THE IMPLICATIONS OF AGUILAR V. FELTON FOR THE PROVISION OF TITLE I/CHAPTER I ASSISTANCE TO NONPUBLIC SCHOOLCHILDREN

Previous Practices in the Provision of Compensatory Educational Services to Nonpublic School Pupils

The most substantial recent report on the provision of title I/chapter 1 services to nonpublic school pupils is the District Practices Study (DPS), carried out between 1979 and 1983 by Advanced Technology, Inc. for the U.S. Department of Education. The primary DPS report on aid to nonpublic school pupils was "Nonpublic School Students In Title I ESEA Programs: A Question Of 'Equal' Services," by Richard Jung.

The authors of the DPS report found that approximately 25 percent of all LEAs participating in the title I program provided services to nonpublic school pupils, which constituted 56 percent of Local Education Agencies (LEAs) with any nonpublic schoolchildren residing in title I target school attendance zones. The likelihood of serving nonpublic school pupils residing in title I project areas was found to rise with LEA enrollment size, with 78 percent of LEAs having enrollment of 10,000 or more providing such services.

Further, it was found that the proportion of title I participants attending nonpublic schools varied widely by region and urbanicity, from a low of 1.5 percent of participants attending nonpublic schools in rural areas of the South and West to a high of 11.5 percent in Northeastern central cities. In terms of the proportion of all pupils within each sector participating in title I, the DPS estimated that 3.8 percent of nonpublic school pupils were title I participants in 1979-1980, compared to 12.5 percent of public school pupils.

The District Practices Study also provides information on the types and intensity of services provided to public versus nonpublic pupils in the LEAs they sampled. The average number of weekly hours of title I instruction was lower for nonpublic pupils (2.6 vs. 4.0 for public pupils), but the average class size was smaller (6.4 nonpublic pupils per class vs. 9.8 public pupils). Thus, the nonpublic classes were shorter but more intensive in terms of the teacher-pupil ratio.

Of perhaps greatest current interest, given the decision in the *Aguilar* case, are the DPS findings regarding the location in which title I services were provided to nonpublic school pupils. It was found that 85 percent of

---

cult to predict what the Supreme Court will do in this Indiana redistricting case.

Thomas M. Durbin is a legislative attorney, American Law Division

[1]Ruling below 603 F. Supp. 1479 (U.S.D.C. S.D. Ind. 12/13/84; IP 82-56-C, three-judge court); *rev. grt'd* 3/25/85, *oral arguments* 10/7/85.

[2]Black's Law Dictionary 618 (5th ed. 1979). *Congressional Districts In The 1980's*, (Washington, D.C.: Congressional Quarterly, Inc., 1983) pp. 617, 619.

[3]The gerrymandering issue for congressional districts was brought before the Supreme Court in 1985, but the Supreme Court denied review. See, *Badham* v. *Secretary of State of California*, U.S. Sup. Ct. doc. no. 84-1226, *cert. den.* 3/25/85; ruling below C.A. 9, 11/1/84.

[4]*Baudemer* v. *Davis*, 603 F. Supp. 1479, 1485 (three-judge court; S.D. Ind. 1984).

[5]*Id.*, 1492-1493.

[6]377 U.S. 533 (1964).

[7]377 U.S. at 578-581. *See*, also *Swann* v. *Adams*, 385 U.S. 440 (1967); *Kilgarin* v. *Hill*, 386 U.S. 120 (1967); *Whitcomb* v. *Chavis*, 403 U.S. 124 (1971); *Mahan* v. *Howell*, 410 U.S. 315 (1973); *Gaffney* v. *Cummings*, 412 U.S. 735 (1973); *White* v. *Regester*, 412 U.S. 755 (1973); *Chapman* v. *Meier*, 420 U.S. 1 (1975); and *Connor* v. *Finch*, 431 U.S. 407 (1977).

[8]603 F. Supp. at 1493.

[9]*Id.*, 1493-1494.

[10]*Id.*, 1495.

[11]462 U.S. 725, 744-765 (1983).

[12]603 F. Supp. at 1490.

[13]462 U.S. at 747-749, 752-753.

[14]*Id.*, 753-755.

[15]*Ibid.*

[16]*Id.*, 784-790.

[17]U.S. Sup. Ct. doc. no. 84-1244; *rev. grt'd* 3/25/84; *oral arguments* 10/7/85.

[18]53 U.S.L.W. 3640.

[19]"Supreme Court Update: Redistricting Is Key Case," Campaign Practices Reports, v. 12, n. 19, p. 2, Oct. 7, 1985. See also, R. Brownstein, "Redistricting Case Forges Strange Alliances," National Journal, v. 17, p. 1238, May 25, 1985.

[20]"Supreme Court Update..."Campaign Practice Reports at p. 2.

[21]F. Barnes, "Gerrymandering," New Republic, v. 193, p. 12.

the sampled LEAs served at least some of their nonpublic participants in a nonpublic school (either the pupils' regular school or another nonpublic school). An estimated 78 percent of LEAs serving nonpublic pupils served *all* their nonpublic participants in nonpublic schools.

Other sites for providing title I services to nonpublic pupils were found to be used much less frequently: 16 percent of LEAs serving nonpublic pupils served at least some nonpublic pupils in public schools (usually in summer programs), while 4 percent served pupils in neutral sites and an additional 2 percent served pupils in mobile vans.

Thus, even though alternatives to providing title I/chapter 1 services to nonpublic pupils in their own or other nonpublic schools have been available since the beginning of the program, these do not appear to have been used in a large majority of LEAs. The District Practices Study did not examine the reasons why particular service locations were selected by LEAs. However, testimony was offered by officials of the New York City school system in the *Aguilar* case on this question.

According to these officials, it was determined that title I services should be provided to nonpublic pupils in their own schools in order to minimize costs and maximize program participation by eligible nonpublic pupils. When the program was first implemented, New York City had required nonpublic participants to travel to public schools after regular school hours, but school district officials were concerned about transportation costs, relatively low attendance rates, and the pupils' readiness to learn after the end of a regular school day.

There was concern that dual enrollment (teaching nonpublic pupils in public schools during regular hours) would violate New York State constitutional provisions, so the alternative selected was instruction in nonpublic pupils' own schools and during regular school hours. It is probable that similar concerns apply in other LEAs which have conducted programs similar to that in New York City.

Summary of Aguilar v. Felton

On July 1, 1985, the Supreme Court held unconstitutional New York City's method of providing title I services to schoolchildren attending nonpublic sectarian schools. As in most other jurisdictions, the City sent public schoolteachers into private schools (92 percent of which were sectarian) to provide remedial instruction and counseling and guidance services to the eligible children attending those schools. But in *Aguilar* v. *Felton*, the Court, by a 5-4 margin, held that that method of implementation excessively entangled church and State and thus was unconstitutional under the establishment of religion clause of the First Amendment.

New York City initially attempted to serve eligible private schoolchildren under title I by having them travel to public schools after regular school hours in order to receive remedial services. But since 1966, the City had sent public schoolteachers and other personnel into the private schools to provide appropriate services on the premises of those schools.

The City instructed its employees to avoid all involvement with religious activities in the schools to which they were sent, and to ensure compliance it set up a supervisory system in which public school supervisors periodically made unannounced visits to title I classes in the private schools. The programs conducted at the schools included remedial reading, reading skills, remedial math, English as a second language, and guidance services.

In 1978 several taxpayers filed suit alleging that the City's method of implementing title I at private schools which were sectarian in nature violated the establishment of religion clause of the First Amendment. Initially, a Federal district court held the program constitutional. But on appeal the United States Court of Appeals for the Second Circuit held it unconstitutional. *Felton* v. *Secretary, United States Department of Education*, 739 F. 2d 48 (2d Cir. 1984). The appellate court said that the pertinent Supreme Court precedents led

> inescapably to the conclusion that public funds can be used to afford remedial instruction or related counseling services to students in religious elementary and secondary schools only if such instruction or services are afforded at a neutral site off the premises of the religious school.... [W]hatever forms of State aid may be given to religious elementary and secondary schools, these must not create a risk, sufficiently significant to require policing, that public school personnel will act, even unwittingly, to foster religion. (*Felton*, supra, at 64)

The Supreme Court affirmed, 5-4. Justice Brennan, writing for the Court, said that the schools involved in this case had a "dominant religious mission" and a "substantial purpose" of inculcating religious values. The City argued that its system of supervision and training assured the religious neutrality of the title I classes. But the program nonetheless, Justice Brennan said, resulted in the excessive entanglement of church and State, in violation of the establishment clause.

Agents of the State, he asserted, had to "visit and inspect the religious school regularly, alert for the subtle or overt presence of religious matter in title I classes; "the religious school had to accede to the determinations of such agents as to what is and is not a religious symbol and thus off limits in a title I classroom; and public and private administrators and teachers had to work closely together to make the program work.

This "detailed monitoring and close administrative contact." he concluded, violated an underlying objective of the establishment clause "to prevent, as far as possible, the intrusion of either (Church or State) into the precincts of the other." Thus, despite the "well-intentioned" nature of the City's program, Justice Brennan stated, it was constitutionally flawed by the "excessive entanglement of church and state in (its) administration...."

Chief Justice Burger and Justices White, Rehnquist, and O'Connor dissented from the Court's ruling.

Scope of Aguilar

Aguilar appears to reaffirm the implications of several earlier Court decisions that public subsidy of personnel engaged in instructional and related services to children attending sectarian elementary and secondary schools is unconstitutional if the services are provided *on* the premises of the schools but constitutional if provided *off* the premises. The decision also appears to leave intact prior rulings holding public subsidy of diagnostic and testing services to such children to be constitutional even when provided on the premises of the schools attended.

The Court has had frequent occasion to consider the constitutionality of public subsidy of the costs of private sectarian education and, more particularly, of the cost of instructional services. In *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971), for instance, the Court struck down two State programs subsidizing teachers of secular subjects in sectarian schools because, the Court said, the surveillance necessary to make sure that the subsidized teachers did not inculcate religion would involve "excessive and enduring entanglement between State and church" in violation of the First Amendment.

Four years later in *Meek* v. *Pittenger*, 421 U.S. 439 (1975) the Court extended this holding to *public* teachers offering instructional services on the premises of sectarian schools. The Court noted that the auxiliary services personnel were not "directly subject to the discipline of a religious authority." But, it said,

> The potential for impermissible fostering of religion under these circumstances, although somewhat reduced, is nonetheless present. To be certain that auxiliary teachers remain religiously neutral, as the Constitution demands, the State would have to impose limitations on the activities of auxiliary personnel and then engage in some form of continuing surveillance to ensure that those restrictions were being followed. 421 U.S. at 371-72.

Again, the Court held that that very surveillance would "necessarily give rise to a constitutionally intolerable degree of entanglement between church and State." But the Court suggested that on-premises diagnostic speech and hearing services did not have the same potential for fostering religion and thus might not fall afoul of the entanglement test.

In *Wolman* v. *Walter*, 433 U.S. 229 (1977) the Court made that distinction explicit. That case involved a variety of State programs benefiting sectarian schoolchildren, including one providing diagnostic speech, hearing, psychological, and health services by public personnel on the premises of sectarian schools and another providing remedial, therapeutic, and guidance services by public personnel in public centers or mobile units located off the nonpublic school premises. The Court held both programs constitutional.

Finally, in a case decided the same day as *Aguilar*, the Court in *Grand Rapids School District* v. *Ball*, 105 S. Ct. 3216 (1985) held unconstitutional two State programs providing remedial and supplemental educational services to children attending sectarian schools.

In the Shared Time program the public school district leased classroom space in various sectarian schools and provided fulltime teachers to give instruction in such subjects as art, music, physical education, and remedial and enrichment math and reading during the regular school day.

In the Community Education program the school district leased classroom space in sectarian schools and provided part-time instructors to direct an array of educational and other enrichment opportunities for the students attending those schools before and after the school day. By 5-4 and 7-2 margins, respectively, the Court held both programs unconstitutional. However, in contrast to the cases discussed above, it did so not on entanglement grounds but because it found the programs to have a primary effect of advancing religion.

Aguilar reaffirms the continuing vitality of these precedents and, together with *Ball*, appears to close the constitutional door on efforts to provide public subsidy to instructional and related services offered on the premises of sectarian elementary and secondary schools. Under the Court's decisions, however, public subsidy of off-premises instructional and related services and of on-premises services that do not involve a close relationship with the pupils involved remains constitutionally viable.

Options for Provision of Chapter 1 Services to Nonpublic School Pupils After the Aguilar Decision

As described above, the *Aguilar* decision of the Supreme Court leaves intact the requirement that participating LEAs with eligible children attending nonpublic schools provide chapter 1 services to those children, yet removes the option of the technique most often used by LEAs in the past—instruction via sending a public school teacher to a nonpublic school. Thus, barring the possible availability of a temporary stay of *Aguilar* (a one-year stay has been granted to the New York City schools), most school districts with educationally disadvantaged children who reside in chapter 1 target attendance areas, but who attend nonpublic schools, have had to find and implement alternative means of serving these children for the current (1985-86) school year.

On August 15, 1985, the Department of Education released "Guidance on *Aguilar* v. *Felton* and Chapter 1 of the Education Consolidation and Improvement Act (ECIA), Questions and Answers." This brief document provides general information on and guidance related to *Aguilar*, but does not detail possible alternative means of providing chapter 1 services to nonpublic pupils. Noteworthy statements in this document include the following:

> Non-religious private schools are not affected by the ruling;
>
> Pupil diagnosis or testing can still take place on private school premises;
>
> Additional administrative, transportation, rental or related costs for special arrangements to provide chapter 1 services to nonpublic pupils must be paid from each LEA's overall chapter 1 allocation, not from amounts set aside for nonpublic pupil instructional costs;
>
> LEAs cannot provide chapter 1 services on religiously —affiliated nonpublic school premises via third parties; and
>
> Whatever new arrangements are made to serve nonpublic pupils, they must remain equitable to those for public pupils, even if this means program adjustments for the latter.

Four types of alternative means of providing chapter 1 services to nonpublic school pupils are discussed below: services in public schools, neutral sites, mobile classrooms, or use of various relatively new instructional or communications technologies. This list is limited to options authorized under current law and apparently in accord with The Department of Education's August 15, 1985 "Guidance" on this subject. One hypothetical option excluded by these criteria is the chapter 1 voucher plan proposed by Secretary of Education William Bennett on November 13, 1985. This proposal is not discussed below because: it would require

Continued page 25

GENE FALK
RICHARD RIMKUNAS

Social welfare programs spent $472 billion in FY 1985, accounting for about half of all Federal spending. These programs provide cash and in-kind payments for individuals and funding for education programs and various social services.

The Federal budget deficit reached $211 billion in FY 1985 and dominated the debate on budget issues in the first session of the 99th Congress. Since social welfare programs account for half the budget, proposals to reduce the Federal budget deficit by cutting spending often included cuts to social welfare programs. This article provides a review of major budget proposals affecting social welfare programs that were made during the first session of the 99th Congress.

SOCIAL WELFARE BUDGET PROPOSALS IN THE 99TH CONGRESS: AN OVERVIEW

Definition of Social Welfare Programs

The Federal budget is categorized into budget functions, groups of programs with a common purpose. As used in this article, social welfare programs refers to those in the following six budget functions: Education, Training, Employment, and Social Services (ETESS); Health; Medical Insurance (Medicare); Income Security; Social Security; and Veterans Benefits and Services.

The ETESS budget function includes programs making grants to the States for elementary, secondary, vocational education, and social service and benefits to college students. The remaining five social welfare budget functions are dominated by spending for benefit payments for individuals. Most Federal payments for individuals can be divided into two groups:

(1) work-related entitlements, such as social security, Federal employee retirement programs, and unemployment insurance, that pay benefits to people and sometimes their families based on their past work; and

(2) need-tested programs, that pay benefits to certain people, families, and households based on their low income.

Figure 1 shows the shares of social welfare spending accounted for by each budget function.

The Congressional Budget Process

The President submits his budget proposals at the beginning of each legislative session of Congress. The President's budget provides a starting point for congressional debate on budget matters.

Congress makes spending decisions by

(1) adopting concurrent resolutions on the budget that set spending ceilings and targets and establish rules governing congressional procedures on budget matters;

(2) changing laws that authorize Federal spending programs; and

(3) making appropriations, giving Federal agencies the authority to spend funds.

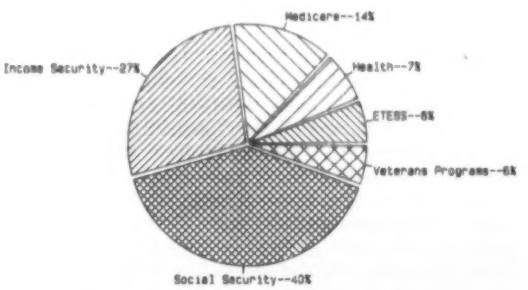
Budget resolutions permit Congress to establish an overall budget plan. A budget resolution cannot by itself change spending levels for Federal programs, but can instruct congressional committees to change laws within their jurisdiction to meet the spending targets and establish rules that govern congressional consideration of appropriation bills.

Major Proposals Offered During the Consideration of the Budget Resolution

A budget "freeze" was the general framework for President Reagan's FY 1986 budget and many of the other budget plans considered by Congress in 1985. The basic idea behind the freeze was to hold spending at the FY 1985 level in FY 1986, with no adjustment for inflation. As inflation and economic growth increase revenues to the Federal government, and spending is held constant, the Federal budget deficit would be reduced.

How would Federal spending be "frozen"? Most of the social welfare programs making payments for individuals are legal entitlements, where all who apply and are eligible have a legal right to benefits. For some entitlement programs, the "freeze" proposals would have eliminated an annual cost-of-living adjustment (COLA). COLAs help keep benefits up with rising prices: many

Social Welfare Budget Functions: Outlays as a Percent of Total Social Welfare Budget Outlays Fiscal Year 1985



Source: U.S. Department of the Treasury. Final monthly treasury statement, FY 1985

social welfare programs making benefit payments for individuals have COLAs, but some do not. Moreover, spending in such programs could continue to rise, for instance, if more people were eligible for benefits.

For so-called "discretionary" social welfare programs, where spending levels are generally determined by annual appropriations (e.g. most of the programs making grants to the States for education and social services), a budget "freeze" would have held FY 1986 appropriations at FY 1985 levels.

Another consideration during the debate on an FY 1986 budget was how to apply the freeze: across-the-board, encompassing all Federal programs; or selectively, sparing some programs while freezing others. An across-the-board freeze proposal was offered at the beginning of the 99th Congress; however, most major budget proposals would have excluded some programs from the freeze: some programs would have received increases in spending while others would have been cut or eliminated.

President Reagan's FY 1986 Budget

The President's FY 1986 budget proposal would have eliminated COLAs in several work-related retirement and disability programs, frozen Medicare payments to hospitals at FY 1985 rates, extended the freeze on Medicare payments to physicians, and held most "discretionary" grants to the States for education and social services to FY 1985 levels. Social security and need-tested benefit programs (those that pay COLAs) would have been spared from the freeze.

While the freeze was the general framework for the President's budget proposal, some programs were excluded from the freeze and spending cuts beyond the "freeze" level were proposed for other programs. In the social welfare program group, the President proposed to eliminate the Jobs Corps, Community Services Block Grant, The Work Incentive Program (WIN), magnet school aid and library aid, and proposed cuts below the freeze level in some other programs.

Senate-passed Budget Resolution

The Senate-passed budget resolution also followed the framework of the budget "freeze." The Senate plan would have eliminated the January 1986 social security COLA, along with COLAs in other work-related retirement and disability programs, and frozen medicare payment rates to hospitals and doctors. As in the President's budget, need-tested benefit programs were not subject to the freeze and appropriations for most "discretionary" social welfare grant programs would have been held at FY 1985 levels. The Senate-passed budget resolution, while providing for a more comprehensive freeze than the President s budget, did not assume the elimination of any social welfare programs, except the WIN program.

House-passed Budget Resolution

The House rejected the Senate's proposals to eliminate any COLAs in Federal benefit programs. Moreover, under the House-passed budget plan, discretionary grant programs that aid mostly low-income people were also excluded from the freeze, and funded at current policy levels. The House did approve a freeze in

Continued page 27

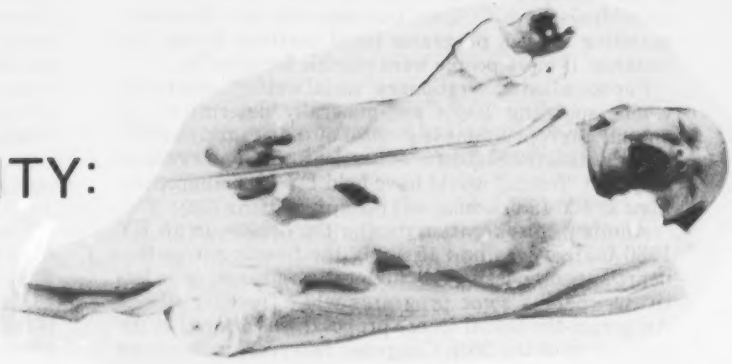
TABLE 1
First Concurrent Resolution on the Budget (S. Con. Res. 32)
Compared with the Budget Baseline
The Human Resource Functions,
FY86-FY88
(outlays in billions of dollars)

	FY86 (est.)	FY87 (est.)	FY88 (est.)	3-Year Savings (est.)
ETESS				
Baseline	$ 31	$ 32	$ 33	
Budget Resolution	31	31	32	
Difference ($)	-*	-1	-1	-3
Health				
Baseline	36	39	41	
Budget Resolution	35	38	41	
Difference ($)	-1	-1	-*	-2
Medicare				
Baseline	72	80	90	
Budget Resolution	69	76	85	
Difference ($)	-3	-4	-5	-11
Income Security				
Baseline	123	129	135	
Budget Resolution	119	124	131	
Difference ($)	-4	-5	-4	-14
Social Security				
Baseline	201	214	228	
Budget Resolution	201	214	228	
Difference ($)	*	*	*	*
Veterans Benefits and Services				
Baseline	27	28	28	
Budget Resolution	27	27	28	
Difference ($)	*	-1	*	-1
Total Human Resources				
Baseline	490	522	557	
Budget Resolution	482	511	544	
Difference ($)	-8	-11	-13	-32

*Denotes change of less than one billion. The baseline is based on the Presidents economic assumptions and the technical estimating methods of the CBO.
Source: Data on the Budget Resolution are from the House Budget Committee, August 1, 1985.

JEANNE E. GRIFFITH
JOSEPH A. CISLOWSKI

INFANT MORTALITY: ARE WE MAKING PROGRESS?



After a long period of declining infant mortality rates in the United States, Federal health officials have recently expressed concern that the pace may be slowing.

The U.S. infant mortality rate dropped from 24.7 infant deaths (deaths of babies between birth and 1 year of age) per 1,000 live births in 1965 to a rate of 11.2 in 1983, a decline of nearly 55 percent. The average annual decrease in this period was 4.4 percent. Since 1981, however, the pace of the decline has progressively slowed to a level of around 2.5 to 3.0 percent per year.

This slowing decline has caused concern for several reasons. Infant mortality rates are one of the most commonly used indicators of a population's health status; they are closely associated with life expectancy levels. The U.S. Surgeon General has set a goal of reducing the infant mortality rate to 9.0 by 1990. Meeting this goal will require an average annual decrease of 3.1 percent from 1983 to 1990. Finally, despite the declining trend, the U.S. continues to have high levels of infant mortality relative to other industrialized nations.

This concern has been expressed in several major studies of infant mortality and low birth weight. The Southern Regional Task Force on Infant Mortality, formed by the Southern Governors' Association, recently released a study which shows the South has the highest infant mortality rates in the U.S. and recommends steps to improve Federal and State services. The National Academy of Science's Institute of Medicine published a report which details the problems of low birth weight and recommends approaches to its prevention.

Leading Factor

Low birth weight is the leading factor associated with infant mortality in the United States. Infants of low birth weight, defined as weighing less than 2500 grams (5 pounds, 8 ounces), are nearly 40 times more likely than infants of normal birth weight to die during the first four weeks after birth, known as the neonatal period. Although less than 7 percent of all births are of low birth weight, two-thirds of all deaths in the first four weeks occur among low birth weight infants.

Postneonatal deaths (between 28 days and one year old) are also linked to birth weight. Low birth weight infants are five times more likely than infants of normal birth weight to die during the postneonatal period. They account for 20 percent of postneonatal deaths.

Low birth weight is an indicator of inadequate fetal growth, resulting from premature birth, poor weight gain for a given duration of gestation, or both. Many factors typically associated with higher risk of infant mortality—such as prenatal care, smoking, alcohol use, and age and marital status of the mother—actually have their primary effect on birth weight. By increasing the likelihood that a woman will have a low birth weight infant, these factors increase the mortality risk for that infant. In addition, low birth weight infants tend to have health and developmental problems later in childhood, both as a result of the survival of less healthy babies and as a result of the side effects of certain neonatal intensive care procedures.

Chart 1 shows the sharply higher infant mortality rates among low and very low birth weight infants. Very low birth weight is defined as 1500 grams (3 pounds, 3 ounces) or less. Within each weight category, the infant mortality rates of whites and all other races are similar. Mortality rates among infants weighing less than 1,000 grams are greater than 700 per 1,000 live births. For infants 1000 to 1499 grams, the rate is about 250. Among normal weight infants, the rate is about 6 per 1,000 live births.

Chart 2, however, shows the percentage of infants born in each of the low birth weight categories. Black infants are more than twice as likely as white infants to be of low or very low birth weight. For example, 10.1 percent of black infants weigh 1500 to 2499 grams, compared to 4.8 percent of white infants. Also, 2.4 per-

cent of black infants weigh less than 1500 grams, compared to 0.9 percent of white infants. This difference between blacks and whites in the distribution of birth weights is the critical factor in the different infant mortality rates of the two groups. Black infant mortality rates are about twice as high as white rates.

Compared to other nations, the U.S. has a very high proportion of infants both of low birth weight and very low birth weight. This factor alone does a great deal to explain the high infant mortality rate in this country relative to other nations of comparable economic and medical development. The U.S. ranks below such nations as Sweden, Japan, Denmark, Norway, France, Spain, Canada, East Germany, and the United Kingdom.

Past Progress

In the first half of this century, the U.S. made relatively greater progress in reducing deaths to postneonatal infants. Improvements in public health and safety reduced deaths to these older infants, which were largely due to environmental causes such as infectious disease and poor nutrition. Since the mid-1960s, the U.S. has been particularly successful in reducing deaths to neonatal infants.

As a result of these trends, the distribution of neonatal and postneonatal deaths has changed dramatically. At the turn of the century, two-thirds of all infant deaths were postneonatal. In the early 1970s, after decades of strong improvement in postneonatal mortality, only about one-fourth of all infant deaths were postneonatal. In 1983, as a result of the relatively greater successes made in neonatal mortality in the previous decade, the share of all infant deaths that were postneonatal had increased to one-third.

Approaching Limits of Medical Technology

The recent decline in infant mortality, particularly neonatal mortality, is due primarily to the improved survival of low birth weight infants. While there has been some progress in the reduction of low birth weight, not as much progress has been made in reducing the incidence of small babies as has been made in treating them intensively after their birth. Neonatal intensive care programs have been given much of the credit for helping low birth weight infants to survive.

However, many doctors now believe we are approaching the limits of the improved technology which has permitted them to save low birth weight babies. Accelerating or even sustaining the pace of the decline in infant mortality may require new approaches, including an emphasis on the prevention of low birth weight.

Risk Factors

In many cases, mothers who are more likely to bear a child with a greater risk of death can be identified early in pregnancy to allow appropriate risk-reducing prenatal and neonatal measures to be taken. Both a woman's behavior and her physical and social characteristics greatly influence her infant's chance of survival.

The following factors have been shown to be important:

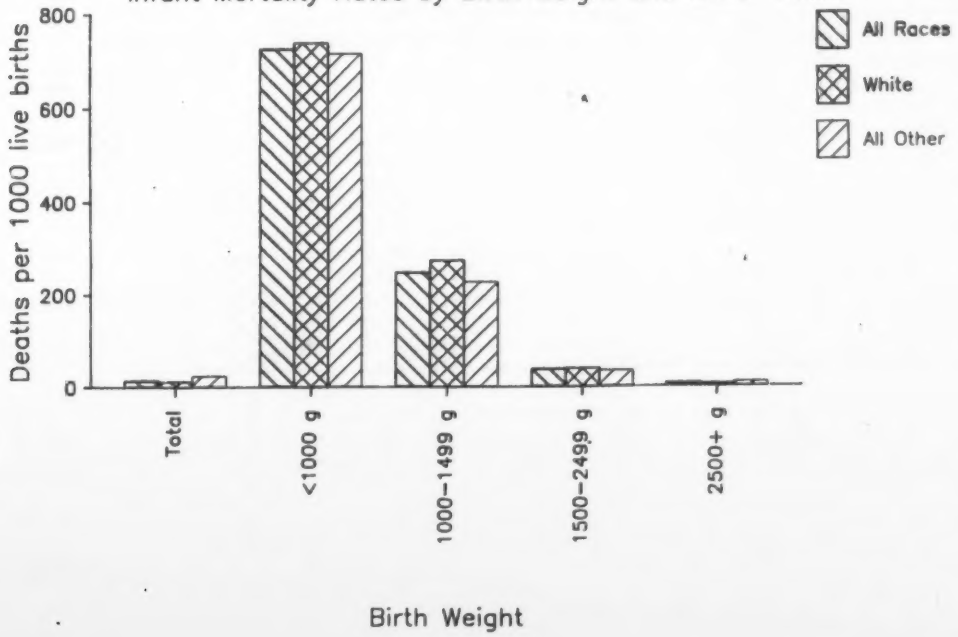
Absent or inadequate prenatal care can lead to higher rates of infant mortality, particularly among high-risk women. Adequate prenatal care is understood to encourage behavioral changes that improve the mother's health and nutrition. It may also uncover medical conditions that with appropriate treatment may not be as threatening to the infant's health.

Not all women receive prenatal care to the same extent. In the early 1980s, nearly 40 percent of black women did not see a doctor for prenatal care in the first trimester of pregnancy, compared to less than 20 percent of white women. There is also some evidence that prenatal care has declined recently in areas with high unemployment or large minority populations. Different researchers have estimated that every dollar spent on prenatal care could save from $2 to $11 in long term costs of health care and institutionalization.

Mothers who smoke during pregnancy are twice as likely to give birth to a low birth weight infant than are nonsmokers. According to the U.S. Surgeon General, smoking may contribute to between 20 and 40 percent of the cases of low birth weight infants. Maternal smoking during pregnancy can also lead to spontaneous abortions, and fetal and neonatal deaths. An infant's risk of sudden infant death syndrome is increased by

CHART 1

Infant Mortality Rates by Birth Weight and Race: 1980



maternal smoking during pregnancy. Pregnant smokers may also adversely affect their baby's long-term growth, intellectual development, and behavioral characteristics. Evidence shows that if mothers stop smoking during pregnancy, their infants on the average will be heavier and otherwise healthier than those of mothers who continue smoking.

Alcohol and drug use are other behaviors which increase the risk of infant mortality. Excessive alcohol use during pregnancy contributes to fetal alcohol syndrome, which can cause fetal death, premature delivery, low birth weight, and birth defects associated with mental retardation. The effects of other drugs are not as well documented; however, some researchers believe that drugs such as marijuana, heroin, methadone, and amphetamines increase the likelihood of low birth weight.

Births out of wedlock have infant mortality rates nearly as twice as high as those in wedlock. This problem has been exacerbated in recent years by the trend of a constantly increasing proportion of births to unmarried mothers. The proportion of all births that were out of wedlock nearly quadrupled between 1960 and 1983, even though the birth rates to both married and unmarried women declined in the same period. In 1983, more than 20 percent of all births were to unmarried mothers. This factor's importance stems, in part, from the higher incidence of unplanned pregnancies to unmarried mothers, their reduced likelihood of receiving prenatal care, and the lower levels of medical care provided to their infants.

Teenage mothers and mothers 35 or older are at greater risk of having their infants die. In the neonatal period, infant mortality rates of teenage mothers are more than 60 percent higher than to mothers over age 20. In the postneonatal period, the rates are about twice as high as those of other mothers. Infants born to teenage mothers are two to three times as likely to be of low birth weight as infants born to mothers in their twenties or thirties. This factor is related to the preceding one in that many births to teenage mothers are out of wedlock. Therefore, many of the same problems that lead to higher infant mortality among unmarried women also affect teenage mothers. In addition, there are biological factors that increase the incidence of low birth weight babies to mothers of these high-risk age groups.

Black infants are more than twice as likely to die as white infants. This risk factor, however, is largely a result of higher birth rates to black teenagers and black unmarried women, lower educational levels, later prenatal care, and other social and economic differences between black and white mothers. As shown in Chart 2, black infants are more than twice as likely to be of low birth weight than white infants.

Other factors associated with higher infant mortality include mothers who live in nonmetropolitan areas; have lower levels of education or income; have had previous infant deaths, stillbirths, or low birth weight infants; or have had closely-spaced births or many previous births. Infants who are premature, in multiple births, or with cogenital anomolies also tend to have higher infant mortality rates. In addition, male infants have higher infant mortality rates than female infants.

Public Programs and Social Trends

Public programs directed toward low income mothers and their children have to varying degrees reduced low birth weight and infant mortality. Medicaid, the Federal-State health insurance program for the poor, has been shown as effective in the reduction of low birth weight and infant mortality. Other programs which may have also had an impact include maternal and child health, WIC (supplemental food program for women, infants, and children), and family planning programs.

Social changes have also helped reduce the share of births to high risk women. They include an increase in women's educational levels, a decrease in the proportion of births to teenagers and women 35 and over, and a decline in family size.

In addition, the increased use of family planning and abortion have sharply reduced total births and the share of births that are not intentionally planned. This has reduced the share of births to high-risk categories of women.

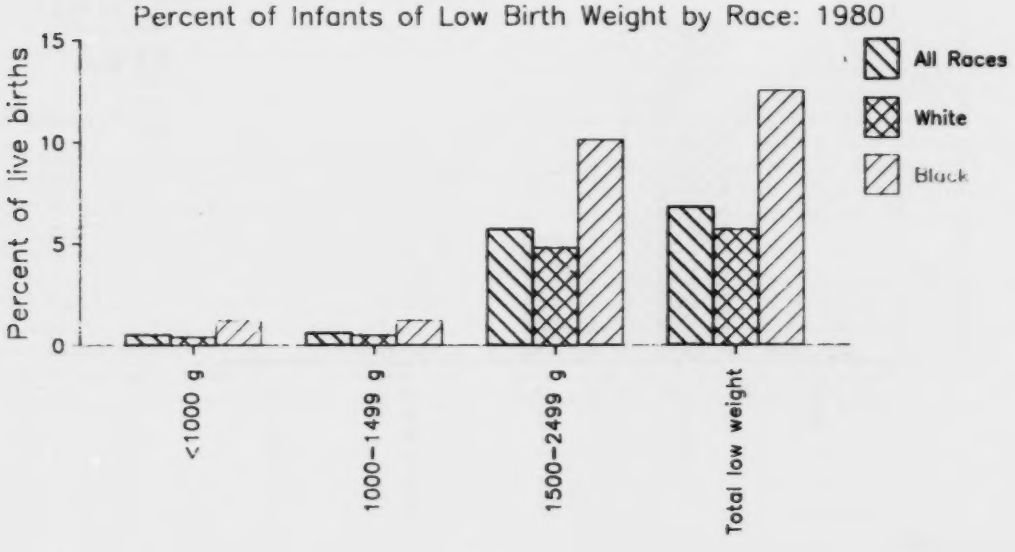
Legislative Approaches

Congressional initiatives aimed at affecting infant mortality in the 99th Congress have included proposals to expand Medicaid services related to pregnancy (S.1730 and H.R. 3128), to target nutrition programs to geographical areas with high infant mortality (H.R. 1856), and to establish a national commission to recommend measures to prevent infant mortality (S. 1209, H.R. 3344, H.R. 3349, and H.R. 3353).

Jeanne E. Griffith is a specialist in social legislation, and Joseph A. Cislowski is an analyst in social legislation, both Education and Public Welfare Division.

CHART 2

Percent of Infants of Low Birth Weight by Race: 1980



DEMOGRAPHIC CHANGES AND HOUSING NEEDS

In recent years, the composition of the standard American family, two parents and children, has been altered because of changing demographics and economic circumstances as well as changing social values and lifestyles. Besides the two-parent family (widely thought of as "traditional"), there are now growing numbers of households and families with special needs such as single persons, single-parent families, elderly households, immigrant households, and handicapped households.

SUSAN VANHORENBECK

Of all these families and households, the number of female-headed families has increased the most dramatically in recent years (see table 1). Much of this increase is due to rising divorce rates and increases in the number of unwed mothers. The divorce rate has more than doubled between 1960 and 1984, and the number of children born out of wedlock has more than tripled in that time period. In addition, there have been significant increases in the number of non-family households comprised of single individuals or individuals living with non-relatives. These households have nearly tripled, from 7.9 million in 1960 to more than 23.4 million in 1984. Most of these households are not home buyers; they make up a substantial percentage of the rental population.[1]

In recent years, the number of available rental units has grown only half as fast as the number of owner-occupied units. Some analysts believe that this is because the demand for rental housing has grown slower than the demand for owner-occupied housing. Others believe the reason lies not in the slow down in the growth of demand for rental housing, but in decline in the growth of rental housing construction.

Since housing suppliers build with expectations of earning a profit, the number and types of housing units available are a consequence of builders' perceptions of housing demand. In recent years, the number of households has been increasing faster than the population in general.

Some social changes have occured in the past few decades which have had an important impact on the number of single-person households. More women are participating in the labor force and foregoing or delaying marriage. The age at which men are marrying has also increased in recent years. Most of these singles begin their independent lives as renters rather than homeowners. As a result, there is an increased demand for efficiency and one-bedroom apartments particularly in areas where large industries are dominant.

The rental stock has been adjusting to the smaller one- or two-person households and as a result not as many three or four-bedroom apartments have been built. The cutback in construction of larger apartments has resulted in particular hardship for the single-parent household which has difficulty for a variety of reasons in obtaining decent rental housing.

The Department of Housing and Urban Development (HUD) estimates that by 1990, approximately 4.4 million families headed by women will account for 43 to 50 percent of all renter households with children. These families will be competing with 28-30 million other renter households (two-thirds of which will not have children) for housing. Complicating matters is the growth in the number of rental units that exclude or restrict children.

A 1980 Federal study revealed that one-fourth of the nation's rental units banned children entirely; an additional 50 percent limited them by number, age, or other factors.[2] Many of these units restrict the number of children that can share a bedroom, or do not permit children of different sexes (many times even in the case of infants) to share the same bedroom.

One of the justifications given by managers for initiating policies restricting children is that tenants without children prefer to live in places that exclude children. However, a

Susan Vanhorenbeck is an analyst in housing, Economics Division.

study conducted by HUD showed that only 25 percent of surveyed renters without children preferred to live in all-adult developments. Managers have also stated that excessive damage and vandalism of rental property occurs when apartments are leased to female-headed households. They contend that single parents either will not or cannot properly supervise their children. However, to date there are no empirical studies comparing maintenance costs or damage repair costs between buildings which do and those which do not rent to such households.[3]

Very few court decisions address the issue of discriminatory rental practices with respect to children. Even legislative successes often fail to eradicate discrimination. There is no Federal law addressing the problem, and critics of present statutes claim that most State and local laws are not enforced. Low-income housing groups have warned that unless action is taken, such restrictions will continue to cause overcrowding, homelessness, and family separations among the poor.

Another condition which has added to the need for rental housing is the recent influx of refugees from Cuba, Haiti, and Indochina. An estimated 16 million refugees worldwide have strained the housing resources of several nations, and in the United States they have exacerbated already critical housing problems in communities with large concentrations of low-income persons.[4] Low-income American residents and refugees are often forced to compete for scarce affordable rental housing. The areas that are heavily settled by refugees are frequently in the same areas inhabited by low-income blacks and Hispanics. Another problem encountered in the housing of refugees is that of overcrowding and sub-families living together. Refugee families tend to be large (seven-person households are average) and there have been reports of as many as 25 people living in one- and two-bedroom apartments.

Some refugee households have been aided by Federal and local government programs. Some public housing authorities have expressed a preference in renting to refugee households over other low-income households because they claim that refugees have a reputation of paying rents promptly, asking for very few maintenance repairs, and have a sense of respect for buildings and the surrounding property. On the local level, some communities are using self-help programs, community development block grant funds, and below-market interest rates in an attempt to provide more low-income housing.

Another major demographic factor affecting housing today is that people are living longer. This means an increased demand for housing for the elderly whether it be luxurious retirement communities, low-income housing or something in between. Also, since people are living longer, housing must be available which will enable them to remain mobile and independent for as long as possible.

Congregate housing may be an answer for the elderly. The purpose of congregate housing is to provide such a mode of living for elderly who are impaired but not ill, providing them with assistance in meal preparation and household duties. Congregate housing projects include a provision for a central dining area, and often provide services such as housekeeping, health, personal hygiene, and transportation facilities. Many see this type of housing as an alternative to premature entrance into nursing homes for many elderly persons.

Another special population group in need of improved housing opportunities are the low-income physically and mentally handicapped persons. Since 1974, these handicapped people have received some limited housing opportunities under HUD programs which had previously been designated for elderly persons. However, since the deinstitutionalization efforts of the 1970s have increased the number of handicapped persons released from institutions with no planned living arrangements (particularly the mentally handicapped), these programs do not seem to be meeting their housing needs.

This may be evidenced in the growing number of homeless people we see on our city streets. There is a definite need for both temporary shelters and permanent housing arrangements. Two possibilities of meeting these needs are the utilization of single room occupancy (SRO) units or group homes with outreach services provided by local social service agencies in our cities.

We can see that the growth of households with special needs is putting a great deal of pressure on the existing housing stock. In some cities this pressure may be relieved by rehabilitating run-down and abandoned buildings. Also, it has been estimated that there are over 15 million housing units with surplus space, and that at least 10 percent of these units could provide additional housing opportunities with very little rehabilitation effort. Homeowners such as the elderly, for example, may wish to rent several rooms to single persons, single-parent families or other elderly in exchange for companionship and income to help defray housing expenses.

In other cities, the pressure of housing needs may be relieved only by new construction or the use of housing vouchers to subsidize rental costs. What is evident is that the housing needs of households differ, depending on the composition of the household. Some households need a combination of housing with services to be properly housed.

[1]Saltojanes, Nancy. The Demographics of Rental Housing. p. 11.

[2]Landlords' "No Children" Policies Frustrate Parents Seeking Housing. Wall Street Journal. October 16, 1985, section 2. p. 1

[3]Smull, Cecile. Housing Our Families. U.S. Department of Housing and Urban Development, Office of Policy Development and Research. Washington, August 1980. p. 11.

[4]Connally, Edward. Refugee Influx Highlights Housing Problems. Journal of Housing. Jan. 1981.' p. 21.

TABLE 1. Types of Households, by Percent Distribution 1950, 1960, 1970, 1980, 1984

Type Household	*1950*	*1960*	*1970*	*1980*	*1984*
Total (thousands)	43,554	52,799	63,401	80,776	85,407
	PERCENT DISTRIBUTION				
Family households	89.2	85.0	81.1	73.7	72.6
Married couple	78.2	74.3	70.5	60.8	58.6
Male householder[a]	2.7	2.3	1.9	2.1	2.4
Female householder[a]	8.3	8.4	8.7	10.8	11.6
Nonfamily households[b]	10.8	15.0	18.8	26.3	27.4
Male householder	3.8	5.2	6.4	10.0	11.4
Female householder	7.0	9.8	12.4	15.4	16.0

[a]No spouse present

[b]Nonfamily households include persons living alone or with nonrelatives.

Source: U.S. Bureau of Census. Statistical Abstract for the United States: 1958 (105th edition). Washington, DC 1984. p. 40. Reproduced from CRS report "Demographics of Rental Housing."

DONALD DULCHINOS

Natural Gas Deregulation: New Directions

The natural gas industry is in the midst of a transition from regulation to partial market competition. The recent Federal Energy Regulatory Commission Order 436 encouraging wider competition has been the focal point of recent congressional interest.

The gas industry is facing uncertainty in both markets and in future supply. Demand has declined while reserves have remained virtually constant since 1979. As a result, productive capacity exceeds the available market (the so-called gas bubble). Whether this will continue over the next few years is a matter of speculation. Further, the turmoil and uncertainty has been accentuated by the deregulation of new gas wellhead prices as of January 1, 1985 (under the provisions of the Natural Gas Policy Act of 1978.)[1]

Changes in the way the industry does business, as well as in its structure have resulted, including renegotiation of contracts between pipelines and producers, lawsuits over contract terms, an increasing fraction of total gas being carried for others, flexible pricing for certain customers, and mergers between pipelines and both gas and non gas companies.

Before discussing current regulatory responses to these changes, and proposed legislative approaches, it may be useful to review the present status of the industry, and the background to the current situation.

Overview of the Natural Gas Industry

The demand for natural gas has been declining since 1979. This decline is believed to be the result of conservation, presumably induced by price increases and shortages. There is a feeling among some gas industry executives that recent stability in gas prices and improved economic conditions will mean greater gas demand. Demand might also increase if Congress lifts current prohibitions on the use of gas as a boiler fuel for electric generation.

Factors operating against substantial demand increases include more efficient furnaces, population movement to the south, and the fact that most industrial users tend to belong to stagnant or declining industries. In addition, the drop in oil prices and consequent increased competition between oil and gas in the industrial sector, plus possible heightened competition from electricity in the residential sector, may contribute further to the decline.

Price effects will remain a major influence on gas demand. Despite the gas bubble of the past few years, many gas consumers have faced rising prices because take-or-pay clauses have encouraged many pipelines to sell higher cost gas. The price of gas appears to be stabilizing now, and should remain stable over the next five years assuming that recent contract difficulties (i.e. take-or-pay clauses) are resolved.

Future prices depend to a considerable extent on the future supply of gas. There is a widespread (though not unanimous) view that conventional gas resources may not be sufficient to support future demand, especially in view of the uncertain duration of the current gas surplus.

An alternative to domestic supply is the importation of natural gas, predominantly from Canada. Recent easing of export restrictions and greater market responsiveness in Canadian gas pricing may lead to increased imports. On the other side of the border, the current U.S. gas bubble may lead to a reluctance to allow imports which could displace U.S. gas.

The foregoing discussion of the current gas market suggests several public policy issues. A major question is whether regulatory arrangements should be modified to reflect the goals of greater competition and more reliance on the free market. Some in the industry feel the service and reliability obligations of the local distribution companies require security in supply arrangements, but there were some markets for which short term supply sources such as spot purchases might be suitable.

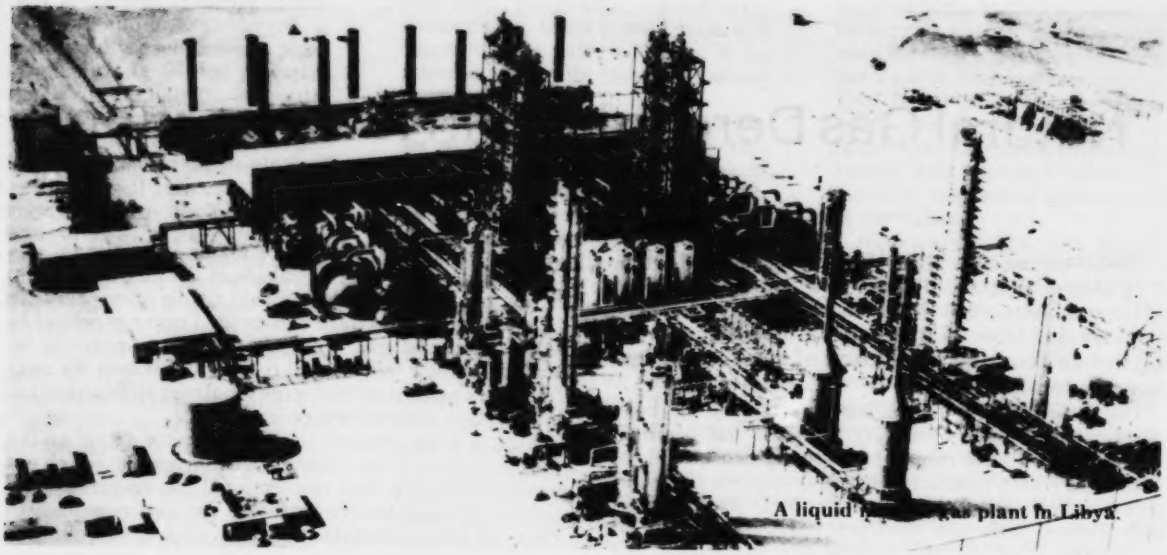
Pipeline companies are especially vulnerable to pressures to remain competitive while satisfying their regulators. Efforts underway to restructure pipeline regulation involve both administrative and legislative solutions.

Solutions: FERC Marketing Programs

In response to changing market conditions, the Federal Energy Regulatory Commission (FERC) issued several orders in 1983 allowing gas pipeline companies to engage in a number of gas marketing and transportation activities. These marketing programs were intended to prevent the loss of existing customers to competing fuels (usually fuel oil) by making lower cost gas available to customers who normally had no access to cheap gas. These programs were superseded by FERC Order 436 in November, 1985, but are instruc-

---

Note: Reports and committee prints may be obtained by contacting CRS, at 287-5700. GAO reports may be obtained from the Accounting Office, Distribution Section, Room 1518, 441 G St. N.W., Washington, D.C. 20548, or phone 275-6241; CBO reports from the Office of Intergovernmental Relations, Congressional Budget Office, phone 226-2600; for OTA reports Publishing Office, Office of Technology Assessment, phone 224-8996. Please note that some of the documents referenced are not available for general public distribution.



A liquid [illegible] gas plant in Libya.

American Petroleum Institute

tive as regulatory strategies for coping with a more competitive market.

There were two major FERC programs: *Blanket Certificate Program* This program allowed pipelines to conduct transportation with only a one-time rate filing, as opposed to filing for each individual transaction. This program was intended to allow pipelines to respond to market opportunities in a more timely fashion and thus result in a more efficient marketplace. *Special Marketing Programs* The special marketing program (SMP) was intended to give the gas industry sufficient flexibility to attract or retain customers who might otherwise switch to alternate fuels.

Other FERC marketing programs over the last three years, such as off system sales and innovative rate designs, were also approved in order to increase the competitiveness of gas. While these programs have encouraged both rethinking and active marketing to take place in the gas industry, the overall effects have been small due to the relatively small percentage of gas moved under the programs.

Recently, the blanket certificate and SMP programs were found discriminatory by the U.S. Court of Appeals for excluding captive customers from participating. FERC's response was Order 436 (discussed below), but Congress has also been offering possible solutions.

Solutions: Mandatory Contract Carriage

Congress has responded to the recent increases in the cost of gas for residential consumers, occurring despite the gas surplus, by proposing mandatory contract carriage, or non-discriminatory gas transportation.

Contract carriage is defined as the transportation of gas by a pipeline company which is owned by some other party. (This is in contrast to the traditional practice of the pipeline purchasing gas from producers and then selling it at the other end of the pipe to local utilities or consumers.) Such carriage is the result of customers seeking lower cost gas than is available from their traditional pipeline supplier. Advocates of mandatory contract carriage feel that certainty about transportation will encourage more customers to seek lower cost gas and also stimulate gas supply. There is also some question as to whether pipelines are refusing to carry gas that might compete with pipeline-owned supplies.

Arguments against mandatory carriage include: existing voluntary carriage is sufficient; capacity problems may result from mandatory carriage; and costs may be re-allocated due to mandatory carriage, resulting in higher prices to residential and small commercial users.

Other arguments against legislatively mandated carriage include the possibility of judicial or administrative remedies to the situation. For example, some have argued that any refusal to provide carriage may be successfully challenged as an antitrust violation. The most important administrative approach is the recent FERC Order 436.

Solutions: FERC Order 436

FERC Order 436 was issued October 9, 1985. It approved a voluntary self-implementing (i.e. blanket certificate) gas transportation (or carriage) program subject to several conditions. Transportation would have to be non-discriminatory, transportation rates for interstate pipelines would have to be cost-based and free of take-or-pay or other provisions which guarantee revenue, and options would be granted for existing firm sales customers of interstate pipelines to reduce firm sales commitments to pipeline suppliers by 25 percent annually or to convert those commitments to firm transportation. This enables them to take advantage of transportation programs, and hence obtain lower cost gas. This is not a mandatory contract carriage program since participation is voluntary.

Order 436 also established an expedited certificate procedure for new service, which may be an increase in existing service or entrance into new markets. Pipelines choosing this option must in return offer non-discriminatory transportation, and must accept the full risk of the new venture (i.e. they may not reduce projected volumes nor recover losses in rate cases.) This option was thought to give an incentive for pipelines to offer transportation services.

Continued page 27

MIGDON R. SEGAL

AUTOMOBILE SAFETY RESEARCH AND DEVELOPMENT

Motor vehicle accidents kill more than 40,000 people per year in the United States. They also account for, on an annual basis, nearly 3 million individual injuries, more than 4 million hospital days, and over 15 million days of lost work. The cost to society has been estimated at roughly $57 billion per year, an estimate which includes only tangible costs, such as medical expenses, lost earnings, and property damage. It does not include monetary estimates of the pain and suffering experienced by accidents victims or of the value of a human life.[1]

This cost has been a source of concern, both for the Federal Government and for the automotive industry. Significant Federal action to enhance automotive safety began in 1966 with the passage of the National Traffic and Motor Vehicle Safety Act (P.L. 89-563) and the Highway Safety Act (P.L. 89-564), establishing a Federal automotive safety program. The auto industry was widely criticized by auto safety advocates for a lack of concern with safety at that time.

While these advocates still criticize the industry on this score today, auto makers' safety efforts have increased markedly since the 1960s. Today, both the Federal Government and the automotive industry conduct research and development programs aimed at improving auto safety, primarily by changing the design of the automobile.

There is much controversy concerning the use of existing motor vehicle safety technologies such as seat belts, air bags, and automobile bumpers. These issues have been addressed in an earlier CRS Review article, "Automotive Safety" (October 1983, CRS REVIEW, p. 20-22), and are treated further in IB83085, "Automobile Crash Protection," and CRS Report no. 83-121 SPR, "Auto Safety and Related Issues: The Federal Program." This article deals with auto safety technologies not yet in general use. Such technologies usually come from research and development programs operated by the Government and by private industry. (This is adapted in turn from CRS multilith 85-184 SPR, "Motor Vehicle Safety Research and Development.")

What's Ahead?

Anti-skid Braking

The loss of control of an automobile resulting from hard braking, especially on wet or slippery surfaces, contributes to motor vehicle accidents. The hard braking that accompanies a "panic stop" causes the wheels to lock with the result that the tire loses traction, steering control is impaired, and a dangerous skid occurs.

This danger may be on the way to being solved by a new automotive development, the anti-skid braking system. In this system the brakes are computer-controlled. Sensors detect when the brakes are about to lock, and the computer then "pumps" the brakes at up to 15 times per second, locking and releasing the wheels much more rapidly than human reflexes would allow. Furthermore, this pulsing action is operated independently for each wheel, thus compensating for the condition in which one side of the car might be on snow or ice while the other is on a firm surface.[2]

The result is said to be a safe, controlled stop even under icy conditions. *Popular Mechanics* states that the anti-skid braking system "might be the most important auto-safety development of the decade."[3]

This system has been successfully used by Mercedes-Benz in Europe since 1978. It was introduced in the United States for the first time in some of the 1985 models for Mercedes and Ford. Mercedes has it on six of its models, and Ford uses it on some of its higher-priced vehicles, such as the Lincoln Mark VII and the Continental. The anti-skid braking system thus appears to be successfully making the transition from research and development to availability in the automotive marketplace.

"Friendly" Interiors

The prolonged stalemate over air bags and other passive restraints, coupled with the continued low use rate for seat belts on the part of the American public, have spurred a search for alternatives in automobile crash protection. One answer has been the concept of designing the interior of the automobile with more crash protection in mind, so that any accidents which might occur would do minimal damage to the occupants of the automobile. This concept has become known as "friendly" interior design.

It has as well become the focus for major research carried out by the General Motors Corporation called the Vehicle Safety Improvement Program (VSIP). GM wishes to provide an effective alternative to air bags, which the company opposes as a costly and unpopular approach to safety. GM now claims considerable success for its VSIP. Under this program, improvements have

been made to the steering assembly, windshields, door structures, and latch mechanisms. Since these are integral features rather than "add-on" equipment, they are best used in new car designs.[4]

GM explained the reasoning behind the VSIP as follows:

> ...This program focuses on protection for unrestrained occupants because we do not believe that any strategy, passive restraint rule, belt use legislation, or technology, will, in the foreseeable future, accomplish the goal of having all motorists restrained. It is for this reason that we believe that the "built-in" safety approach can save more lives than a reinstatement of the (passive restraint) rule, i.e., a reinstatement that would be met by most, if not all, manufacturers with automatic seat belts. The focus of our efforts is on protection for unbelted occupants, as well as belted occupants.[5]

GM claims that its Pontiac Fiero is a vehicle whose design has benefited from the VSIP approach. The Fiero was intended to provide maximum occupant protection in a crash, a goal that was aided by the rear location of the engine which permitted more "crush space" in the front of the car.[6]

The improved windshield design now used by GM is similar to the "Securiflex" antilacerative windshield, produced by a French company, which has been in use in Europe since 1978. The builders added a fourth plastic layer on the passenger side to the three-layer laminated windshield, which has been required in the United States since 1968. This thin layer keeps the occupants from being injured by shattered glass in an accident.[7] They were not allowed on vehicles in the United States for some years because the passenger side did not meet a standard set by the National Highway Traffic Safety Administration (NHTSA) on abrasion resistance. After tests proved the merits of this windshield design, NHTSA ruled in November 1983, that the antilacerative windshields could be used. Subsequently, General Motors incorporated this concept into its VSIP program.

Computers and Auto Safety

Computers are causing major changes in automobile design and operation, as in many other areas. With respect to the automobile, a role for computers was foreseen at least as early as September 1972, when an automotive trade publication ran an article discussing a "computer vehicle analyzer system" which would be used in diagnosing automotive maintenance problems.[8]

The anti-skid braking system is an example of such improvement made possible by computers. Some additional developments concerning the use of computers in automobiles include electronic controls used by Toyota to improve shock absorber performance, computer simulation used by GM in testing new research concepts in order to reduce the need for physical testing of prototype hardware, and the use of computers to display information for the driver on a cathode-ray-tube (CRT) in prototype Buick Riviera models.

Other possible future developments include a drowsiness alert system which would recognize erratic driving patterns and warn the driver to stop and rest; radar-operated warning systems which would warn the driver of an impending collision; and "fail soft" systems which would allow the car to operate well enough to struggle to safety, even when all the electronic systems had failed.[9]

Drunk Driving Warning Systems

Drunk driving takes an enormous toll on America's highways. The National Highway Traffic Safety Administration estimated in 1983 that 57 percent of fatal traffic accidents, or approximately 25,000 deaths per year, were alcohol-related. The toll in personal injuries and property damage was correspondingly high.[10]

In October 1985, DOT announced the results of a study showing a decline in drunk driving deaths. Between 1980 and 1984, the number of fatally injured drivers who were intoxicated at the time of the crash declined 24 percent. Also, fatally injured drivers who were drunk (as a percentage of all fatally injured drivers) dropped from 50 percent to 43 percent during that time. This improvement was attributed to a combination of factors, including public awareness campaigns, tougher laws and stricter enforcement of those laws, the raised minimum drinking age in many States, and the efforts of citizen organizations.[11]

The problem remains serious, however, and some believe that "drunk driving warning systems" might contribute to its solution. NHTSA has sponsored research intended to deter drunk driving by using devices that would be attached to the automobiles belonging to chronic offenders. After early consideration of an interlock device, which would totally prevent an ineb-

Covered bridges served a purpose when comparative automobile safety was somewhat assured by inherent slower speeds.

riated driver from starting his or her car, NHTSA dropped this approach because of the danger such a device might present in emergency situations.

The device being developed is called a "Drunk Driving Warning System" (DDWS). It consists of a display, similar to that of computer games, in which the driver must keep a displayed needle centered on the screen for a set period of time before starting the automobile. If the test is failed, it cannot be taken again until 10 minutes have elapsed. In an emergency, the driver could override the device and operate the car without taking the test. However, this causes the emergency flashers to operate and the horn to sound at one-second intervals.

The DDWS devices were fabricated in 1976-1977 and subsequently field tested in California by Systems Technology, Inc., a Hawthorne, California firm. According to NHTSA's report on the experiment:

> Judges using this sanction and all of the participants who completed the program liked it...Of the more than 2,000 person-days during which the alarms (honking horn and flashing lights) were armed, on only 10 trips did subjects drive with the horn and the lights activated. The two alarms were actually activated for a total of 53 minutes.[12]

Policy Options

It is clear that technologies do exist that if implemented would increase automobile safety. These are gradually being brought to practical use on automobiles, carried forward primarily by the automobile manufacturers, and at a pace set by them. Thus, antiskid braking systems are gradually making their way into the marketplace, and "friendly" interior designs and various computer applications may follow.

One issue is whether the manufacturers are doing enough, or if the Federal Government should force the pace by using the regulatory tools at its disposal. This question has been asked repeatedly in the past with respect to air bags and other devices, and the answer has varied from year to year and from Administration to Administration. It may be asked in the future regarding newer technologies as well.

A second issue deals with the level of Federal auto safety research and development spending. The current Federal program is not an extensive one. It could be contrasted with NHTSA's more extensive "Research Safety Vehicle (RSV)" program, which began in 1974 and was completed in 1981. The RSV program developed small cars that demonstrated new safety features, as well as other advances in fuel economy and pollution levels.

One such vehicle, which included both air bags and an energy-absorbing body structure, was said to offer protection to occupants in crashes of speeds up to 50 MPH, which is far in excess of the protection available in motor vehicles today. This work was completed in 1981. Further efforts along these lines have not been undertaken by NHTSA, because of the Reagan administration's view that this is an inappropriate activity for the Federal Government.

Another issue deals with the desirable level of cooperation between Government and industry. At the present time there is relatively little Government-industry cooperation on research and development for auto safety. A "Cooperative Automotive Research Program (CARP)" was proposed in 1979 by the Carter administration, but never implemented. CARP was intended as a program of basic research related to automotive technology in a variety of technical areas, in order to provide a better basic understanding of these areas which would lead to automobiles that would be more efficient, safer, and less polluting than existing models.[13]

The CARP effort never proceeded beyond the discussion stage. The program was cancelled by the Regan administration for budgetary reasons and because the new Administration believed that this kind of program was inappropriate for the Federal Government, preferring to leave such research efforts to the private sector.[14]

Funding for "Research and Analysis" in the NHTSA budget had reached a level of $43 million a year by FY 1981. In FY 1982 it had dropped to $34 million, reflecting the lower priority assigned to this work by the Reagan administration. It has since climbed back to roughly a $40 million annual level, but remains below the FY 1981 level, particularly when inflation is taken into account.

By approving the present budgetary level for auto safety R&D, Congress is indicating agreement with the current policy of leaving automotive safety development largely up to the automobile manufacturers. Should Congress mandate a higher level of research and development funding for auto safety? Should Congress also earmark funds specifically for programs such as RSV and CARP? Should Congress signal that it would like to see a faster pace of automotive safety development than the executive branch now envisions?

Migdon R. Segal is an analyst in transportation technology, Science Policy Research Division.

[1]U.S. Dept. of Transportation. National Highway Traffic Safety Administration. The Economic Cost of Society of Motor Vehicle Accidents. DOT HS 806 342, Jan. 1983. p. I-1-I-3.

[2]Keebler, Jack. Now: Skid-Control Brakes. Popular Mechanics, Nov. 1984. p. 79-82.

[3]Ibid.

[4]General Motors Corporation news release on testimony by David E. Martin, GM Director of Automotive Safety Engineering, at NHTSA hearing held Dec. 5, 1983.

[5]General Motors Corporation response to Docket 74-14, Notice 32, Federal Motor Vehicle Safety Standards: Occupant Crash Protection, Dec. 19, 1983. (Report no. USG 2284)

[6]Ibid., Appendix C, p. 3-4.

[7]Segal, Migdon. Auto Safety and Related Issues: The Federal Program, op. cit., p. 43.

[8]The Future for Automotive Diagnostic Systems. Automotive Engineering, v. 80, no. 9, Sept. 1972. p. 21-27.

[9]O'Rourke, P. J. Driving into the Future. Access, Fall 1984. p. 62-66. (Special issue of Newsweek).

[10]U.S. Dept. of Transportation. National Highway Traffic Safety Administration. Alcohol in Fatal Accidents, National Estimates—U.S.A. Executive Summary. National Center for Statistics and Analysis. DOT HS 806 370, Jan. 1983. 16 p.

[11]U.S Dept. of Transportation. Dole Announces Decline in Drunk Driver Deaths. Press release, Oct. 17, 1985.

[12]Snyder, Monroe B. The Drunk Driving Warning System—Status Review. Paper presented at the 63rd annual meeting, Transportation Research Board, Washington, D.C., Jan. 18, 1984. 32 p. (See p. 10)

[13]Basic Research in Automotive Technology. White House Fact Sheet, May 18, 1979.

[14]Rescissions and Deferral. Message from the President...Mar. 18, 1981. (House Document No. 97-32). p. 136.

PROTECTING CONGRESS:

Capitol Police circa 1860.

In 1801, there was only one (1) night watchman for the entire Capitol grounds. In 1985, U.S. Capitol Police Chief James Carvino directs a professional police force with an authorized personnel level of 1,222 men and women, indicative both of an increase in population and of crime.

Throughout its history, there have been efforts to modernize and expand the police force in order to meet its growing and shifting responsibilities. This has been particularly true in the past decade.

While Members recognize the need for the Capitol Police, there has been disagreement about the size of the force; what its responsibilities should be; and procedures and regulations that govern its activities. These differing perspectives have been voiced during congressional hearings and floor debates that have accompanied the authorization and appropriation measures that affect the police.[1]

Jurisdiction over the Capitol Police

Until 1867, the Commissioner of Public Buildings was responsible for the Capitol Police. In that year, responsibility for the Capitol force was transferred from the Commissioner to the Sergeants at Arms of the House and Senate.[2]

The House and Senate Sergeants at Arms are the officials who have responsibility for security for the House and Senate respectively. The Sergeants at Arms submit the budgets of the Capitol Police and the Capitol Police Board to the Legislative Branch Subcommittees of the House and Senate Appropriations Committees.

The Capitol Police Board determines police policy and, therefore, has the greatest impact on the daily operations and policies of the police. The Board is involved with such matters as prescribing hiring standards and detailing police officers for duty. The Board is composed of the Architect of the Capitol, and the House and Senate Sergeants at Arms. The chairmanship of the Board rotates yearly between the two Sergeants at Arms. The Chief of Police serves at the pleasure of the Board and reports to it. The Board is the link between the Chief of Police and Members of Congress.

The Senate Committee on Rules and Administration and the House Committee on House Administration have exercised primary legislative and oversight jurisdiction over the Capitol Police, while the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works have jurisdiction over legislation relating to the Capitol Buildings and security.

Responsibilities of the Capitol Police

The Police are responsible for providing security for Members of Congress, congressional staff, the Capitol buildings and grounds, and dignitaries and heads of state visiting Capitol Hill. Protection is critical during the Presidential inaugural swearing-in activities and the President's State of the Union Address, when the President and Vice President, and the entire Congress, Cabinet, Supreme Court and top foreign diplomats are scheduled to be in attendance.

The central and enduring function, however, is providing an environment of security enabling Congress to perform its legislative functions free from threats of violence, while at the same time preserving the constitutional rights of all citizens to peacefully assemble and

JOHN PONTIUS

THE ROLE OF THE UNITED STATES CAPITOL POLICE

express themselves to their elected representatives.

By the same token, there is a responsibility to distinguish between the harmless, the "oddballs," for whom Washington has always been a veritable mecca, and those truly deranged who present a real threat. It isn't always easy.

As Congress and its staff have grown, so have the demands placed upon the Capitol Police. Today, they patrol a 40-block, 200-acre area, which includes the 20 buildings that comprise the Hill complex. The force presently provides coverage of the Capitol Buildings and grounds twenty-four hours a day, seven days per week, with personnel split among three work shifts. The Supreme Court and the Library of Congress have their own separate police forces.

In addition to their duties to protect property and prevent crime, the Police also assist the numerous visitors to Capitol Hill. During 1984, over 1.2 million people visited the Capitol building on guided tours conducted by the U.S. Capitol Guide Service, a separate group from the Capitol Police. At least as many visited the Capitol and the congressional office buildings individually as constituents, tourists, or on governmental business. There were also 39 official visits by ranking officials and foreign dignitaries, 172 concert events, and 185 permits issued for demonstrations on the Capitol grounds during the same period.

The Capitol itself is a symbol of freedom to the world. And it is probably the most accessible, even with recently tightened security. Along with the Senate and House office buildings, it is a focal point for diverse groups who wish to communicate with their elected representatives. In the words of James M. Powell, a former chief of the Capitol Police:

> The Capitol and its attendant buildings are the people's buildings, and allow virtually unlimited access to any citizen or visitor. No other national government permits unescorted access to their legislative body. Security and accessibility are essentially opposing concepts, and the greater accommodation of one must be at the expense of the other. If we are going to allow freedom of access to the Capitol, our challenge of providing adequate security is measurably increased and made more difficult.
>
> Within the Executive and Judicial branches, a large majority of buildings either limit or restrict access in some manner. Elaborate security systems based upon the concept of limited access are routinely provided for judges appointed to the Federal bench.[3]

Given the large number of people on the 'Hill' grounds and the numerous events that take place there, the Capitol Police believe that the security needs are unique and unlike those faced by domestic law enforcement bodies of similar size.

Violent incidents, the need for security, and the growth of the police force

The Capitol has been the scene of violent incidents. Since the British set fire to it in 1814, it has been the site of three bombings, four shooting incidents, three attempted assassinations, and lesser altercations including those between Members themselves.

In 1954, five Members of Congress were wounded by three Puerto Rican gunmen who brought weapons into the House gallery. In 1968 a massive city riot triggered by the murder of Martin Luther King caused emergency security cordoning of the Capitol that included military forces. On March 1, 1971, a bomb exploded in the Capitol causing damage, but no injuries. A person with explosives taped to his body was arrested in the House Gallery in 1983. Most recently on November 7, 1983, a bomb exploded just outside the Senate Chamber in a second floor hallway.

In response, Congress increased the size of the Police force, and funded the purchase of new equipment designed to improve security. An electronic surveillance (closed circuit television) and an intrusion detection system were installed. Visitors pass through metal detectors at designated entrances, again if they are headed for the galleries. Packages and briefcases are inspected, and purses usually move through an x-ray belt, as also used at airports.

As a result of these inspections, the Capitol Police have made arrests of persons carrying weapons, but sometimes with innocent intent. Only this past November, a mother from the midwest, accompanied by her husband and children, asked a police officer in the Capitol if she could "check her revolver." She spent the night in detention as the price of her naivete.

Concrete barriers have been placed along streets to limit access of unauthorized vehicles to the Capitol building and plaza areas. Parking is restricted to those people with passes or on authorized business. To increase security further, Congress has appropriated money for the procurement and installation of hydraulic security barriers at the street entrances to the Capitol grounds.[4]

This improvement program includes the training of the Capitol Police Special Investigations Unit to examine suspicious packages, handle bombs, and provide electronic counter-surveillance. Some of the Police units use specially trained dogs on their patrols; another handles civil disturbances. The world-wide increase in acts of terrorism has prompted the Capitol Police to create a specially trained group to handle barricaded individuals and hostage situations.[5]

Since Members desire to maintain close and easy contact with the public, Congress has been reluctant to impose security restrictions injurious to that value. For example, Congress considered a proposal to place bulletproof glass in the House and Senate galleries, but rejected it because it would symbolically isolate Members from the public. The desire for affinity with people has always been the prevailing principle in terms of securing the Capitol and its environs. With the increase of terrorist violence in recent years, however, it has become necessary to balance this purpose with the need to assure adequate security for the Members and staff and to protect the Capitol buildings.

Some Members have voiced concerns that the Congress has gone too far to protect its Members. For exam-

ple, reductions in force have been proposed, noting that there are approximately 2 police officers for every Member. Critics also point to the availability of several police security agencies that can be called upon as necessary, including the Metropolitan Police, Park Police, the FBI, and others.

Contrarily, it has been argued that adequate numbers of police and stricter procedures are needed to ensure the safety of Members, staff (approximately 15,000 people), and the Capitol complex. Those who defend the measures that have been taken cite data that show that in 1984 there were 323 serious crimes against persons within the six-block radius surrounding the Capitol grounds. By comparison, there were only 33 such crimes on the grounds proper.[6]

As authorized by its legislative committees (House Administration and Senate Rules and Administration), programs have been initiated to ensure that the Capitol Police have the staff, equipment, training, and operational procedures necessary to accomplish their mission. House Administration Committee Chairman Frank Annunzio has commented:

> We have come a long way toward professionalizing our police force since 1971. Today, we have a professional recruitment and promotional system, second to only a few big city police departments. We have raised the level of competence and professional expertise of our Capitol Police to the point that our force is close if not the equal of any other law enforcement agency in our country.[7]

Patronage, Professionalism, and Training

Until the mid-1960s, patronage appointees constituted a large percentage of the Capitol Police Force. Before 1968, the turnover rate for the entire force was 80 percent per year, due primarily to the number of police who were college students. Because of concern over the professional quality of the force and its capability to meet certain emergency situations, the U.S. Capitol Police frequently relied on the District of Columbia Metropolitan Police for additional security assistance.

Since that time, the policy has been to establish a professional, merit-based force. New appointees must have at least one year of police experience, and meet standard physical and mental requirements. Promotions are competitive, based upon a written examination, a supervisor's performance appraisal, and an oral board evaluation. The annual turnover rate currently stands at approximately 5 percent.[8]

All members of the force undergo training in both marksmanship and modern law enforcement methods. Training includes eight weeks at the Federal Law Enforcement Training Center. In addition, over 40 Capitol Police officers have graduated from the Federal Bureau of Investigation National Academy.

In 1979, Congress passed legislation establishing the position of Chief of the Capitol Police and providing for the gradual phasing out of the Metropolitan Police detail.[9] As the professionalism of the Capitol Police has increased, the need for the Metropolitan Police has diminished. Today there are only 3 Metropolitan Police detailed to the Capitol force.

The Capitol Police share intelligence information and maintain close contact with other law enforcement agencies such as the Metropolitan Police, Federal Bureau of Investigation, Secret Service, Park Police, Supreme Court Police, and Library of Congress Police.

John Pontius is a specialist in congressional organization and operations, Government Division.

For additional information see: A Statutory History of the U.S. Capitol Police, Committee on House Administration, Committee Print, 1985; The U.S. Senate: Capitol Police, Honorable Robert Byrd, February 3, 1981, Congressional Record, pp. S945-S951. Congressional Research Service, The Capitol Police: 1801-1950, by Sharon Gressle, November 28, 1972.

[1]See, for example, the following hearings and floor debate: House floor debate, Legislative Branch Appropriations, FY 1986, July 18, 1985, Congressional Record, H5917; annual hearings by Senate and House Appropriations Subcommittee on the Legislative Branch (especially Senate Appropriations Legislative Branch Subcommittee hearings on FY 1981, p. 364.)

[2]14 Stat. 457, 466.

[3]U.S. Congress, Senate, Appropriations Subcommittee on the Legislative Branch, Hearings on FY 1981 Legislative Branch Appropriations, p. 375.

[4]P.L. 99-151 U.S. Congress, House, Conference, Making Appropriations for Legislative Branch for FY 1986, Conference Report, H. Doc. 99-321, p. 5. Washington Post, July 25, 1985, pp. C1 and C6.

[5]Interview with Captain Robert R. Howe, U.S. Capitol Police, August 2, 1985.

[6]U.S. Congress, House, Appropriations Subcommittee on the Legislative Branch, Hearings on FY 1986 Legislative Branch Appropriations, p. 40.

[7]Honorable Frank Annunzio, Remarks in the House of Representatives, Congressional Record, December 16, 1981, pp. H9880-H9781.

[8]U.S. Congress, House, Appropriations Subcommittee on the Legislative Branch, Hearings on FY 1982 Legislative Branch Appropriations, p. 285.

[9]93 Stat. 1099, 1100.

U.S. Air Force Photo

F-16 fighters. In the February CRS REVIEW, Richard Grimmett will discuss, "Legislation Opposing Arms Sales."

Assistance to School Children

from page 9

amendment of the chapter 1 legislation; it raises distinct constitutional questions; and it still would not eliminate the need to find alternative means of serving educationally disadvantaged nonpublic schools pupils who have not selected vouchers.

> (For a detailed analysis of this topic, see "Vouchers for the Education of Disadvantaged Children: Analysis of the Reagan Administration's Proposal," by Wayne Riddle, Nov. 15, 1985, CRS report No. 85-1022 EPW.)

(A) *Provision of chapter 1 services to nonpublic pupils in public schools*

According to the DPS, the second most common location for providing title I services to nonpublic pupils was the public schools, used to at least some extent by 16 percent of the sampled LEAs which served nonpublic pupils. It was found that services in public schools were usually provided during the summer only (in programs for public and nonpublic pupils together) or after regular school hours. This alternative has the advantages of low (or no) additional facilities costs, the precedence of relatively frequent past use, and general availability (although perhaps only when the schools are not in regular use).

Major disadvantages include the possibility of substantial transportation costs, the possibility of reduced instructional productivity for both teachers and pupils in after-hours programs (or reduced attendance by pupils), and—in some States—the possible violation of prohibitions against "dual enrollment," with the danger of such violations often perceived to be greatest for classes during regular school hours.

A final possible difficulty with after-hours or summer-only programs for nonpublic pupils in public schools is the question of whether such programs are truly equivalent to regular school period programs offered to public school pupils. If services are provided to nonpublic pupils only after hours, might programs for public school pupils be required to be offered in the same fashion? One can only speculate in this regard, but it is not inconceivable that the issue might arise.

(B) *Provision of services in "neutral" sites*

According to the DPS, 4 percent of their sampled LEAs served nonpublic pupils in "neutral" sites, such as neighborhood "storefronts" or available public buildings other than schools. Compared to option 1 above, transportation costs might be reduced (given the hypothetically larger range of sites to choose from), and there is no special incentive to offer services only during the summer or after regular school hours. The major disadvantages to this method are related to possibly high facilities rental costs and limited availability. Appropriate spaces may not be available (or may not meet health, safety, or other relevant requirements), or may be expensive to rent.

(C) *Use of mobile classrooms*

In effect, this is the provision of options 1 or 2 in mobile form. (The degree of actual mobility may vary, from motorized units to trailers in semipermanent positions.) Use of mobile classrooms could reduce pupil transportation costs (and lost time) to a minimum, since they could be placed adjacent to (but not actually on) nonpublic school property. However, facility costs would be significant in virtually all cases, since school systems cannot be assumed to have unused mobile units available for this purpose (unlike fixed public building space which might be available at little or no marginal cost).

Also, it is generally assumed that such facilities expenditures, as non-instructional costs, would have to be paid from the LEA's overall chapter 1 allocation, not from amounts set aside for nonpublic pupils' instructional expenditures. However, if the mobile classroom could be used for services to children at multiple nonpublic schools, the costs per pupil served might be minimized.

(D) *Techniques relying on relatively new instructional/communications technologies*

Given the rapid rate at which new instructional and/or communications technologies are being developed and being implemented by school systems, these new technologies are likely to be considered for provision of chapter 1 services to nonpublic pupils, in spite of the relative lack of historical precedent for use of these techniques. Listed below is a brief, sample list of such techniques:

> a. Loan of microcomputer hardware and/or software to nonpublic schools for use by chapter 1 participants;
>
> b. Transmission of instructional software or interactive instruction from public facilities to nonpublic schools via telephone connection (modem);
>
> c. Closed-circuit television transmission of "live" instruction or taped instructional programming;
>
> d. Loan of instructional videocassettes and video recorders;
>
> e. Provision of instruction via telephone;
>
> f. Connection between microcomputers owned by nonpublic schools and either large computer systems (for instructional programs requiring higher capacity hardware) or databases maintained or purchased by public school systems; or
>
> g. Loan of the newer compact laser disc hardware and instructional software.

Each of these techniques would have the advantage of "riding the wave" of great current interest and activity regarding microcomputer-related and other forms of instructional technology. Further, the hardware and expertise necessary to take advantage of many of these techniques are now available in many LEAs (although this is less true of options b, f, or—especially—g). A final advantage is that some of these techniques might be relatively inexpensive on a per pupil served basis.

Principal disadvantages with these and similar forms of educational technology are related to their very newness, and thereby a lack of documented success. At this time, there is great debate, and very little empirical evidence, regarding the effectiveness of instructional techniques such as those outlined above. The only ones with an extensive history of use in title I/chapter 1 programs for nonpublic pupils are instruction by telephone and closed circuit television, which have apparently been used in certain Wisconsin school districts, in

Foot Power

Library of Congress

A CAMEL CARAVAN in the Kaghan Valley of Pakistan. Watch for an article on U.S./Pakistan relations in a forthcoming CRS REVIEW.

response to a 1975 State Attorney General decision which was similar to the Supreme Court's *Aguilar* decision. There has been some documented use of microcomputers in title I/chapter 1 programs, but not specifically for services to nonpublic pupils. Whether these methods are instructionally productive at all, or whether they are particularly more effective or cost-efficient in the education of disadvantaged children than other methods described above is simply unknown.

Further, although the necessary equipment and knowledge are widely dispersed among LEAs, they are far from universally available. Their availability might be particularly questioned in areas with high numbers or proportions of educationally disadvantaged children.

Finally, with all forms of instructional equipment, a constitutional question arises. At the very least safeguards must be provided to assure that the equipment is used only for secular, supplementary instructional services for educationally disadvantaged pupils.

When Options Must Be Implemented

Ordinarily a judicial decision is effective when issued, but sometimes considerations of equity will cause a court to stay the effective date of a decision. New York City has been granted a one-year grace period in which to comply with *Aguilar*. But in Missouri a Federal district court has enjoined any continuation of a chapter 1 bypass program that sent public schoolteachers into sectarian schools. In addition, two suits have been filed charging that Secretary Bennett has deliberately sought to undermine compliance with *Aguilar* because ED has supported the efforts to delay the effective date of *Aguilar*. But unless a court grants such a delay, it must be assumed that administrators have to comply immediately.

David Ackerman is a legislative attorney, American Law Division; Wayne Riddle is a specialist in education, Education and Public Welfare Division.

Natural Gas *from page 18*

These components had originally been proposed in a Notice of Proposed Rulemaking (NOPR) on May 30, 1985 which included one more provision which was not adopted in the Order. It would have allowed the pipeline to escape from contracts with high take-or-pay obligations through a cash buyout, and FERC would have automatically allowed that buyout to be included in rates. The omission of this component from Order 436 seems to have discouraged participation, as only two of the major interstate pipelines had chosen to participate in the first weeks since the order was issued. The Interstate Natural Gas Pipeline Association has called for legislation enacting a similar transportation program, but with the buyout program for producer contracts included.

Another provision of the NOPR, known as block billing, which would have kept the advantages of relatively low cost old gas for existing customers, was postponed for further consideration after it evoked strong criticism that it would have negative effects on new gas exploration.

Meanwhile, FERC's blanket certificate and other special marketing programs have been discontinued, supposedly to be replaced by Order 436. Although existing programs have been allowed to run to the end of their contracts (or until certain dates), some transportation customers were left without service, leading to at least one shutdown of an industrial plant supposedly due to lack of gas supplies.

In response to the pipelines' inaction, two congressmen have asked the Federal Trade Commission to investigate whether pipelines are violating antitrust laws by not participating, since there is some feeling that if one pipeline chooses to take part, all neighboring pipelines would be under pressure to follow suit.

The above changes can be considered as efforts to modify the regulatory system. Encouraging the availability of transportation services may, if successful, help transform the pipelines from a utility to a common carrier, or into a hybrid offering both gas and transportation interchangeably. This action may also cause local gas distributors to act more competitively by seeking out alternative supplies of gas to be transported by the pipeline, possibly leading to lower consumer prices.

On balance, FERC appears to have moved from a reactive mode to that of an active regulator, although in reacting to criticism of its NOPR it appears to have backed away from the more profound actions it had been contemplating. The industry, particularly the pipeline segment, has not embraced the new regime, and gas markets are in flux. Congress is faced with the decision of whether to wait for further evolutionary developments, or risk strong action to accelerate change.

See also Natural Gas Transportation: New Directions from FERC, by Donald Dulchinos, Office of Senior Specialists, and Larry Kumins, Environment and Natural Resources Division. IB84082; Natural Gas: On the Road to Deregulation, by Alvin Kaufman, Senior Specialist in Mineral and Regulatory Economics, Donald Dulchinos, Office of Senior Specialists, and Robert Poling, Legislative Attorney, American Law Division, CRS Report no. 85-140S, July 2, 1985.

Donald Dulchinos is a senior research assistant, Office of Senior Specialists.

[1]New gas includes production from wells drilled after February 19, 1977, from new onshore wells over 5000 feet deep, and gas sold under intrastate contracts as of November 8, 1978.

Social Welfare *from page 11*

Medicare payment rates to hospitals and doctors in its budget resolution. Those discretionary grant programs that do not aid mostly low-income people would have been frozen for FY 1986 at FY 1985 levels.

The budget resolution agreed to by both the House and Senate on August 31, 1985 assumed that all COLAs in benefit programs would be paid as scheduled for FY 1986 and that discretionary grant programs that aid mostly low-income people were to be funded at the current policy level. It did assume that Medicare payments rates to hospitals and physicians would be frozen. The result was much smaller budget cuts in social welfare spending cuts assumed by the First Concurrent Resolution on the budget are shown in Table 1.

The budget resolution instructed congressional committees to meet its targets by reporting changes to the Guaranteed Student Loan, Medicare, Medicaid, the Pension Benefit Guarantee Corporation, and public housing programs. Most of the remaining savings were to come in appropriations.

During consideration of a resolution to raise the limit on the national debt, the Senate adopted a proposal offered by Senators Gramm, Rudman, and Hollings to set new targets for the Federal budget deficit, different from those in the budget resolution. The House later approved a different version of this plan. Both plans, in addition to setting new deficit targets, include a procedure to make "automatic" spending cuts if it is estimated at the beginning of the fiscal year these targets will be exceeded. The plans would empower the President to order such cuts. The cuts are to come from both constraining COLAs in benefit programs and cutting appropriated funds. Under the Senate-passed version, social security would be excluded from any of these automatic cuts. The House plan would exempt certain need-tested programs as well as social security from these automatic cuts.

Gene Falk is an analyst in social legislation and Richard Rimkunas is a specialist in social legislation, Education and Public Welfare Division.

NOTE: At the time of this writing, November 24 1985, Congress had yet to complete action on FY 1986 reconciliation measures (changes to authorizing laws required by the budget resolution) and FY 1986 appropriation bills. Final action was also not taken on the Gramm-Rudman-Hollings proposal.

U.S. Congressional Budget Office. The Economic and Budget Outlook: An Update. August 15, 1985.

U.S. Library of Congress. Congressional Research Service. Cost-of-Living Adjustments (COLAs): Proposals in the 99th Congress to limit COLAs in Federal benefit programs. [by] Gene Falk. CRS Issue Brief no. IB85137. Updated regularly.

-----. Federal spending for Human Resource Programs in the FY86 Budget. [by] Gene Falk and Richard Rimkunas. CRS Issue Brief no. IB85074. Updated regularly.

Seminars

Inquiries 287-7904

Weekly on Thursday	INTRODUCTORY BRIEFING ON CRS RESOURCES, SERVICES, AND FACILITIES FOR MEMBER AND COMMITTEE STAFF. Room 209, James Madison Building. 10:00 to 11:30 a.m. Open to permanent Member and Committee staff only; not open to interns. Coordinator, Pat Clark, 287-6464.
Weekly	SCORPIO. Introductory training classes available at CRS. Individual refresher or advanced session available at either CRS or your congressional office. Open to Member and Committee staff. Call 287-6447 for an appointment.
January 7-9; 14-16, 1986	PUBLIC POLICY ISSUES INSTITUTE. A series of over forty seminars presenting overviews of public policy issues of legislative significance to the 99th Congress, 2nd Session. Open to professional, congressional staff. James Madison Building, The Library of Congress. Coordinator, Chad Wilson.
January 30-31	ADVANCED LEGISLATIVE INSTITUTE. A two day program for graduates of the One-Day Legislative Institute. Includes sessions on raising measures for consideration on the floor, the amending process, resolving House and Senate differences, the legislative process in operation (with examples from the Congressional Record), and committee procedure. Hagerstown, Maryland. Coordinator, Ruth Allison.
February 6-8	INSTITUTE FOR ADMINISTRATIVE ASSISTANTS. A two day program designed to offer Capitol Hill AAs information and discussion opportunities that will help them in their jobs. Hunt Valley, Maryland. Coordinator, Jill Ziegler.
February 7	LEGISLATIVE INSTITUTE FOR MEMBER AND COMMITTEE STAFF. A full day program on the legislative process for congressional staffers. Covers House and Senate floor procedure, committee systems, and the budget. Generally a prerequisite for the Advanced Legislative Institute. Open to legislative staff ONLY. National 4-H Center. Coordinator, Jill Ziegler.

Whether or not the Soviet and/or its hierarchy yet represents "a riddle wrapped in a mystery inside an enigma," as Winston Churchill saw the sprawling colossus, the Kremlin poses no small challenge to those from other nations attempting to conduct foreign relations. In the February CRS REVIEW, John P. Hardt will explore, "Gorbachev's Economic Strategy."

7/2

GORBACHEV'S ECONOMIC STRATEGY

99th Congress

LC14.19:

CONGRESSIONAL RESEARCH SERVICE REVIEW

February 1986

NEWARK PUBLIC LIBRARY
MAR 3 1986
U.S. GOVT. PUBS.
DEPOSITORY 376

LEGISLATION OPPOSING ARMS SALES

HUMANS ON MARS?

ANALYSIS OF THE TAX REFORM BILL

DYNAMICS OF CHILD POVERTY

CHEAPER FIGHTER PLANE

TRUCKING INSURANCE PROBLEMS

JAPANESE IMPORT BARRIERS TO U.S. AGRICULTURAL EXPORTS

V. 7 No. 2

JOHN P. HARDT

GORBACHEV'S ECONOMIC STRATEGY

General Secretary Gorbachev faces the 27th Soviet Party Congress in February, less than a year after taking power, but with a clear emphasis on domestic and economic improvement. His first priority in the 12th Five-Year Plan (1986-1990) is to energize and mobilize his economic resources to get the economy moving. With adoption of the draft plan for the remainder of the century and also of a new Party Program—only the third in Soviet history—Gorbachev plans to establish the basis for the restructuring and reform of the economy. This two-staged process is not without contradictions. Many feel that the reform step will prove too costly when Gorbachev faces up to its political costs and risks.

Gorbachev's five-year economic plan projects a growth rate of between 3.5 to 4.0 percent, in U.S. national accounting terms, which would dramatically reverse the downward trend in Soviet economic performance and provide more resources for investment, consumption, and defense. How much will be allocated for each seems to be in question, judging from the annual plan for 1986.

The Congressional Research Service Review
Library of Congress
Washington, D.C. 20540

A. A. Hoehling—*Editor*, CRS Review

The CRS REVIEW is a professional journal for the United States Congress and its legislative staff. It is published ten times a year to provide the congressional community analytical articles on substantive public policy issues. The Congressional Research Service (CRS) serves Congress in its legislative and oversight responsibilities.

CRS is a separate department of the Library of Congress which analyzes and evaluates legislative proposals pending before Congress or recommended to it by the President and executive agencies.

The CRS Review is distributed to Members of Congress, their staffs, congressional committees, and other offices of the legislative branch. It is also available through GPO stores.

NO. ISSN 0193-8029

Gorbachev and Economic Reform

Mikhail Gorbachev represents the post-World War II generation in the U.S.S.R. Yet, invoking the style of Lenin, he is attempting to rekindle the perceived revolutionary élan that had previously imbued many Soviet citizens and leaders alike with enthusiasm, discipline and optimism. He may also be preparing the ideological and political grounds for significant changes in the economic system, including:

Ideologically, Gorbachev's new strategy resembles that of Lenin during the New Economic Policy of the early 1920s, which emphasized a withdrawal of central planning to the "commanding heights" of a more decentralized system based on increased top leadership guidance and oversight.

The current Gorbachev strategy appears to emphasize short-term gains over long-term improvements: priority to Western regions with pre-existing but aging capital, plants and infrastructure over developing eastern and southern regions with abundant material and human resources; renovation of existing facilities over new, modern complexes. Sectors such as machine building are to be strengthened, while other sectors important to modernization are to be given lessened priority. Moreover, the short-term strategy seems to center on energizing and potentially strengthening the ministerial system and local Party role in the economy which in the long term must be changed to effectuate the reforms Gorbachev has been calling for.

Gorbachev is relying heavily on the "human factor"—better trained and motivated managers, workers and peasants. His purge of the economic bureaucracy continues and an incentive system for workers and peasants is being actively explored.

In order to approach Western levels of efficiency in a market-stimulating economy, changes would need to be introduced within the Marxist-Leninist political system which guides and controls the Soviet economy. The twin objectives of improved efficiency and maintenance of the political system may prove to be mutually exclusive in the future, as they have seemed to be in the past. Devolution of ministerial and regional Party responsibility and authority to economic enterprises appears to be essential to this change in management.

Such a new Gorbachevian economic formula would require a new environment conducive to technological dynamism, an information revolution, and increased efficiency in the manner in which imported Western technology is absorbed, adapted, and integrated into the Soviet economic system. This would be facilitated by a heightened emphasis on economic modernization rather than on continued, rapid military growth—i.e., a change in the classic guns-growth-or-butter choice.

Gorbachev's rule may usher in a new stage or epoch for the Soviet economy: a shift from Stalinist extensive development of resources to intensive growth. The adoption of modernization and efficiency as economic criteria may result in increases in quality, as well as increases in quantity. If economic modernization is the principal aim of the Gorbachev leadership, the U.S.S.R. might, in time, join the Western industrial nations as an economic and technological superpower.

While the first stage of Gorbachev's economic strategy involving energizing and mobilizing the economy is underway and may show signs of success, the second—the reform stage—is much more problematic and only underway in rhetoric. If, indeed, a politically acceptable growth rate and qualitative improvement in performance are to be achieved in the future, based on fundamental reform in the economic system, hard choices must be made involving a shake-up of the major political-economic underpinnings of the Stalinist system and the structure of the planning and management mechanism. If accomplished, and one man's will may provide the necessary impetus, the Soviet economy might then begin to enter what may be called the "economic modernization stage of Leninist development."

Gorbachev's domestic economic strategy is important in terms of both style and substance. The style is to project the Leninist image of intellectualism and to revive the Soviet spirit; in effect, to create a new Gorbachevian "efficient technocrat," a professional who upholds a work ethic, a competent manager who is accessible to subordinates, demanding, but fair.

The substance of the Gorbachev strategy is more complex. For each proposed economic change there appear to be offsetting political costs, institutional and personal. Style is not easily translated into substance; words into deeds; overcoming intertia and deep-seated skepticism is extremely difficult.

However, if Gorbachev appears to be successful—if he is lucky— he could conceivably develop what early Soviet leaders referred to as the "smell of success," which would enable him to command support in the Party, government, and among the populace. Success may facilitate a translation of style into substance and may assist Gorbachev in establishing himself firmly enough in power to risk significant systemic changes. *But*, the "ifs" are big, formidable "ifs."

In the near future, perhaps through most of the next Five-Year Plan (1986-90), Gorbachev's short-term strategy may or may not show the positive results he promises. By putting professionally efficient and motivated people in charge and generating a work ethic in the Soviet society based on an increasing appearance of reward by accomplishment, the current system may be energized, unwieldy and monolithic as it is—"workaholics" may replace "alcoholics" at the work place. Through a shortrun strategy of centralizing economic policy and planning in the hands of handpicked Gorbachevian lieutenants, of selectively pruning the overgrown ministerial system, and of devolving some authority and responsibility to enterprises and collective farms, the performance of the system may be improved in terms of the growth of output and productivity.

Rising growth rates may give the impression of enhanced quality of performance. Centralization and

computerization may give an impression of movement within the scientific and technical community and provide some results. Moreover, Soviet society may accept the idea that the system has been moving toward a more just and responsive society.

Any short-term improvements, however, must be considered against the exceptionally low levels of performance of the recent years, the comparatively low level of Soviet productivity by international standards, and the low morale of Soviet society. Recently, weather has had an especially negative effect on harvests and construction; industrial growth has been at a post-World War II low. And the popular spirit, the way of life, has seemed as depressed as the Kremlin's uninspiring, aged leaders.

Short-term economic success may, paradoxically, reduce the likelihood or pressure for beneficial long-term reform and restructuring the system. Systemic changes would require an effective adoption of new success indicators:

Better allocation of resources requires accurate measures of costs and revenues, simulation of a market place—a price system.

Rationalization and decentralization of management should be based on profitability criteria that provide the central planning authorities with an effective measure of accountability and oversight.

A scientific and technical environment that fosters innovation, scientific communication and rewards those responsible for technological advancement requires criteria such as the world market provides Western industrial economies.

Faced with the problems of reforming the economic bureaucracy, especially streamlining the formidable ministerial system and curbing the regional and local Party organs from intervening in the management system, Gorbachev may not stop short of pursuing the fundamental changes necessary for putting the U.S.S.R. in the ranks of modern industrial economy. He just may use the power accumulated by personnel changes and political success to realize a vision of a more efficient, technologically dynamic economy. Or, like Khrushchev, despite early successes, he may well squander his political capital in other political-economic changes that do not provide long-term aid to the economy.

In attempting to reform the economic, governmental, and Party bureaucracy, he has one great advantage over most of his predecessors: the institutions he must change will be populated by his chosen cadres. By the time of the 27th Communist Party Congress in February 1986, many of the key economic administrators will be Gorbachev's choices. Gorbachevian "efficient technocrats" may be able and willing to accept market-simulating change. They may give Gorbachev the option of reconstituting the roles of government and Party in the Soviet economy, and they may aid him in exercising that option. Gorbachev's appointees may represent a new class of economic bureaucrats not only able to perform in a changed environment but committed to the process of economic change—an interest group for reform.

Ironically, some pressure that pushes Gorbachev to make the necessary systemic changes may be generated

by the United States. Only by very basic, long-term changes, can the Soviet Union keep up in the scientific and technological race to remain an economic superpower. Gorbachev is known to be concerned about the widening technological gap between the Western industrial nations, especially West Germany and Japan, and the Soviet Union. Moreover, in view of the dynamic character of military technology, falling further behind in the civilian scientific and technological revolution would erode the long-term security of the U.S.S.R. as a military superpower.

There may also be pressure from the populace for material improvement. More goods and services for the Soviet citizen, a more just system and more involvement in the process—were Gorbachev's "human factor" program successful—could generate rising expectations and create broad-based pressure for the qualitative improvements possible only through reform.

Gorbachev's Commercial Strategy

As Gorbachev continues to establish and solidify his domestic power, he is reasserting Soviet control over the East European allies, which had been somewhat loosened during the interregnum. In this process he faces policy dilemmas: how should trade advantages of closer East-West interdependence be weighed against diplomatic gains through exploiting political-economic differences within the developed West? How should the economic benefits of closer Western economic relations be weighed against the security problems of Eastern dependency and vulnerability resulting from interdependence?

In this context, Gorbachev must reflect as well on the contributions of the CMEA allies. Is Eastern Europe a burden or asset in economic and security terms? What must he do to improve his net East European assessment? The CMEA-Six tend to favor economic detente and limited usage of trade in Eastern diplomacy; the smaller East European countries tend to prefer more East-West economic interrelations and have less concern than the Soviets about vulnerability and dependency in Western trade relations.

Political gains may flow, to be sure, from exploiting a divided Western policy. These gains, however, might in Gorbachev's view be more than offset by the commercial losses generated by a mixed Western policy of restriction and facilitation.

A preferred Gorbachev commercial strategy that complements his domestic strategy would be one that facilitated expanding trade with the United States as well as other Western countries. The Soviet Union, like the United States, can more easily persuade its allies to adhere to a policy of trade facilitation than a policy of trade restriction. As illustrated by his recent statements, he has stressed Soviet commitment to interdependence and more flexible forms of commerical relations with the West. (In his speech, December 12, 1985, to the U.S.-U.S.S.R. Trade and Economic Council in the Kremlin, attended by the author.)

A stable trade facilitation policy encouraging both an Eastern and Western consensus might include the following:

A delineation of Eastern import needs within an acceptable range of Western security concerns that deemphasizes noncommercial transfers, especially industrial espionage;

Long-term agreements involving assurances of contract sanctity and government-private commercial partnerships; and

A shift in import policy from materials to machinery and from products to systems.

Importance of Gorbachev's Strategy for the U.S.

With his ascendancy to the pinnacle of Soviet power, Mikhail Gorbachev brings a new look to Soviet foreign as well as domestic economic policy. By comparison to his predecessors, the look is necessarily "favorable." His general political-economic policy is important because it will affect not only the East-West agenda but even the details of commercial policy changes, i.e., the determination of contracts for imports, exports and credits. Gorbachev may directly initiate and consummate foreign economic transactions. His Western leadership counterparts in Washington and elsewhere may influence—facilitate or restrict—trade but are usually not directly involved in negotiating commercial contracts of transfers of technology. The Soviet leadership, following its own perceived interests, decides whether to put oil or other commodities or products on the world market. It also makes the decisions that determine which part of the domestic programs will be supplied by foreign imports and by whom.

If Gorbachev decides not to buy from or sell to the United States, there will not be a Soviet market for American goods. To paraphrase Ronald Reagan, "It takes two to trade." Therefore, any assessment of U.S. commercial policy with the U.S.S.R. should give major consideration to the premises and parameters of the Soviet commercial policy and to the personal views of the General Secretary.

Because of large domestic and CMEA production and wide foreign availability of supplies, the Soviet leadership has a wide range of choice for the Twelfth Five-Year Plan [1986-90]. There is usually some source in the West to supply non-military imports. As the major Soviet exports—oil, gas, arms and gold—are not purchased by the United States, the pattern of Soviet sales to the West is, by and large, not directly influenced by the United States. Soviet exports and imports are tradeable with many other Western countries. If the United States follows a restrictive policy, the Soviet Union may try to use trade policy as a tool to divide the Western consensus and coordinated action. Consensus in the West on Eastern commercial policy may thus be our key to effective trade policy with the U.S.S.R. and effective response to the new Gorbachevian Soviet economic strategy.[1]

John P. Hardt is senior specialist in Soviet economics and associate director for senior specialists. He attended the U.S.-U.S.S.R. Trade and Economic Council meeting in Moscow in December, 1985, including the dinner meeting with General Secretary Gorbachev.

[1]Based in part on a paper presented at the *Forum on East-West Trade and Technology Transfer: New Challenges for the United States.* To be published by the Institute for Foreign Policy Analysis, Inc. International Security Studies Program, the Fletcher School of Law and Diplomacy.

RICHARD F. GRIMMETT

LEGISLATION OPPOSING ARMS SALES

The Supreme Court's 1983 decisions in *INS* v. *Chadha* and related cases have raised questions regarding the congressional procedure for dealing with arms sales proposals, and legislation that might be introduced to prohibit or modify such. This article reviews the process and procedures that currently apply to congressional consideration of proposed arms sales.

Congressional Options Under Current Law

Congress' ability to block arms sales is legally more constrained today than it was following passage of legislation in the mid-1970s giving it the authority to prohibit an arms sale by passage of a *concurrent* resolution. This device's principal appeal was that a simple majority vote in both Houses could stop a specific arms sale, since a *concurrent* resolution is not subject to the Presidential veto.

The Supreme Court decisions in *INS* v. *Chadha* and related cases in 1983 changed this situation. Subsequent to the Court's rulings, the use of the *concurrent* resolution provisions in the Arms Export Control Act to block an executive branch arms sale decision is generally considered to be unconstitutional.[1] Moreover, because the applicable congressional procedures, particularly those in the Senate, relate expressly and exclusively to a constitutionally suspect device, their use, without modification, to block a proposed arms sale by a constitutionally acceptable vehicle—such as a *joint* resolution—seems subject to parliamentary challenge.

In present circumstances then, Congress can block or modify a proposed sale of military equipment only if it passes regular *legislation* prohibiting or modifying the sale and delivery of the equipment to the recipient country. In all likelihood, it must be capable of overriding a Presidential veto of this legislation. In practical terms, this means that Congress ultimately must be able to muster a two-thirds majority of those present and voting in both Houses to ensure that it can impose its view on the President.

Congress can pass a law to block or modify an arms sale at any time whether or not it has received a statutory or "formal" executive branch proposal to make a particular sale or series of sales. Congressional use of its lawmaking power regarding arms sales is not constrained by the *reporting* requirements of the Arms Export Control Act. Congress could, for example, pass legislation to prohibit or modify the implementation of an arms sale proposal well *after* the 30-calendar-day statutory reporting period had elapsed should it choose to do so—up to the point of delivery.

There are important practical advantages, however, to prohibiting or modifying a sale, if Congress wishes to do so, *prior* to the date when the formal contract with the foreign government is signed—which presumably could occur shortly after the 30-day period. These advantages include:

(1) limiting political damage to bilateral relations that could result from signing a sales contract and later nullifying it with a new law;

(2) avoiding financial liabilities which the United States Government might face for breaking a valid sales contract.

The legislative vehicle designed to prohibit or modify a specific arms sale can take a variety of forms, ranging from a rider to any appropriation or authorization bill to a freestanding *joint* resolution. The only essential features that the vehicle must have are

(1) that it is *legislation* presented to the President for his signature or veto and

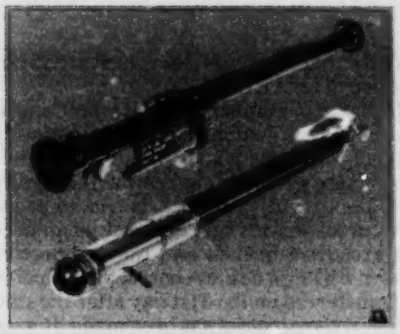
(2) that it contains an express restriction on the sale and delivery of military equipment (whether specific items or general categories) to a specific country or countries.

Traditional Congressional Schedule for Review

The traditional sequence of events for the congressional review of an arms sale proposal has been the submission by the Defense Department of a preliminary or "informal" classified notification of a prospective major arms sale 20 calendar days before the executive branch took further action. It has been the practice for such "informal" notifications to be made for arms sale cases that would have to be formally notified to Congress under the provisions of section 36(b) of the Arms Export Control Act.[2]

Under section 36(b) of the Arms Export Control Act, Congress must be formally notified 30 calendar days before the Administration can take the final steps to conclude a government-to-government foreign military sale of major defense equipment for $14 million or more, defense articles or services of $50 million or more, or design and construction services for $200 million or more. (In the case of such sales to NATO member states, NATO, Japan, Australia, or New Zealand, Congress must be formally notified *15* calendar days before the Administration can proceed with the sale.)

Commercially licensed arms sales also must be formally notified to Congress 30 calendar days before the export license is issued if they involve the sale of major defense equipment valued at $14 million or more, or



Hawk surface-to-air missile (top l.); Stinger anti-aircraft guided missile and launcher; F-16 Falcon aircraft armed with A-9 Sidewinder air-to-air missiles (center); and Abrams M1 main battle tank.

DOD photos

defense articles or services valued at $50 million or more (section 36(c) AECA).

It should be emphasized that after Congress receives a statutory notification required under sections 36(b) or 36(c) of the Arms Export Control Act and 30 calendar days elapse without Congress having legally blocked the sale, the executive branch is free to proceed with the sales process. This fact does not mean necessarily that the executive branch and the prospective arms purchaser will sign a sales contract and that the items will be transferred on the 31st day after the statutory notification of the proposal has been made. It would, however, be legal to do so at that time.

Congressional Use of the Joint Resolution Process

As indicated earlier, Congress has a variety of legislative options it can use to block or modify an arms sale. To show how this process might work, one of these options, the use of a *joint* resolution of disapproval, will be examined in detail. While this illustration presumes the use of the joint resolution *after* Congress has received a *formal* notification under section 36(b) of the AECA, it is clear that a properly drafted law could block or modify an arms sale transaction *at any time*—including *before* a formal notification was submitted or *after* the 30-day statutory notification period had expired (so long as the items have not been delivered).

After receiving a statutory 36(b) notification from the executive branch, opponents of the arms sale would introduce *joint* resolutions in the House and Senate drafted so as to forbid or modify by law the sale and delivery of the items specified in the formal sale notification(s) submitted to the Congress. Under the Arms Export Control Act, the formal notification is to be submitted to the chairman of the Senate Foreign Relations Committee and the Speaker of the House. The Speaker has routinely referred such notifications to the House Foreign Affairs Committee as the committee of jurisdiction. The next step would be committee hearings in both Houses on the arms sale proposal.

If a majority of the House and Senate committees supported the joint resolutions of disapproval, they would report such resolutions to their respective chambers in accordance with the governing rules of the House and the Senate. Then efforts would be made to seek floor consideration of these measures.

Senate Floor Procedures

At this point, it is important to take note of procedures crafted to expedite the consideration of arms sales resolutions of disapproval and some problems that may exist in the aftermath of *INS* v. *Chadha* and related cases. Since 1976, section 36(b)(2) of the Arms Export Control Act has stipulated that consideration of any resolution of disapproval in the Senate under section 36(b)(1) of the AECA shall be "in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976" (P.L. 94-329, 90 Stat. 729).[3] The purpose of section 601(b) was to authorize rules to facilitate timely consideration of any resolution of disapproval in the Senate. These rules set forth in section 601(b) supersede the standing rules of the Senate and among other things do the following:

1. Give the committee with jurisdiction over the resolution of disapproval [the Senate Foreign Relations Committee] *10* calendar days from the date the resolution was referred to it to report back to the Senate its recommendation on any such resolution; (certain adjournment periods are excluded from computation of the 10 days);
2. Make it in order for a Senator favoring a disapproval resolution to move to discharge the committee from further consideration of the matter for failing to report it to the Senate by the end of the 10 calendar days;
3. Make the *discharge motion privileged, limit debate* on it to *one hour*, and preclude efforts to amend or to reconsider the vote on such a motion;
4. Make the motion to consider a *resolution of disapproval privileged* and *preclude efforts to amend or* to *reconsider* the vote on such motion;
5. *Limit* the overall time for *debate* on the *resolution of disapproval* to *10 hours* and *preclude efforts to amend or recommit* the *resolution* of disapproval;
6. *Limit* the *time* (*one hour*) to be used in connection with *any debatable motion or appeal;* provide that a *motion to further limit debate* on a *resolution of disapproval,* debatable motion or appeal *is not debatable.*

Despite the explicit procedures set out in section 601(b) for Senate consideration of arms sale resolutions, it seems unlikely that such procedures would automatically apply to a joint resolution introduced to block a proposed sale.[4] Section 601(a) of the International Security Assistance and Arms Export Control Act of 1976 stipulates that the provisions of 601(b) are to be applied to any resolution "required by law" (e.g., the Arms Export Control Act) to be considered in the Senate in accordance with its provisions. Section 36(b) of the AECA, however, expressly refers to the use of a *concurrent* resolution to disapprove an arms sale and not a *joint* resolution. Yet the *Chadha* case and related cases require *legislation* (e.g., a *joint* resolution) to be presented to the President for it to be constitutionally valid.

Because section 36(b) of the Arms Export Control Act does not "require by law" or envision the use of a joint resolution for disapproval of an arms sale proposal, it is possible that a Senator could make a point of order against the use of the expedited procedures of section 601(b) for consideration of a *joint* resolution of disapproval. Should the presiding officer of the Senate uphold the point of order, and the Senate sustain his ruling, then the joint resolution of disapproval would have the same status as any other piece of legislation and be subject to all motions and rules governing consideration of regular legislation in the Senate. This could result in notable delays in the consideration of this legislation.

The Senate is constitutionally empowered to amend its rules or to effect rules changes at any time. The fact that an existing rule is in section 601 of the International Security Assistance and Arms Export Control Act of 1976 is not an obstacle to changing it by Senate action alone. For example, by unanimous consent or by suspending the rules the Senate could apply the provisions of section 601(b) to consideration of a *joint* resolution of disapproval.

House Floor Procedures

The House of Representatives is directed by sections 36(b)(3) and 36(c)(3)(B) of the Arms Export Control Act

to consider a "concurrent resolution" for disapproval of an arms sale reported to it by the House committee of jurisdiction as "highly privileged." Generally, this means that the resolution would take precedence over all other questions of the House except the motion to adjourn. Here again, because *concurrent* resolutions cannot reverse authorized actions by executive branch officials, it is possible that a point of order could be raised successfully against consideration of a *joint* resolution of disapproval as "highly privileged."

But given the powers of the House Rules Committee to set the framework for floor consideration of legislation, this prospect need not create the problem for timely consideration of such a resolution that might be the case in the Senate. Upon receiving a request for a rule to govern consideration of a *joint* resolution of disapproval, the House Rules Committee could set a time limit for debate, exclude any amendments to, and waive any points of order against the resolution. If the rule it submitted to the House were adopted, it would govern the manner in which the legislation would be considered.

Final Congressional Action

Assuming all procedural problems have been overcome and a joint resolution of disapproval passed by both the House and the Senate, a further consideration should be noted. If the versions of the House and Senate joint resolutions were different, a conference committee would have to be appointed to reconcile them and a conference report sent back to the two chambers for final approval.

If both the House and Senate approved the conference report, the legislation could then be sent to the President. Once this legislation reached the President, he might well veto it in a timely manner. Congress would then have to muster a two-thirds majority in both Houses to override the veto and impose its position on the President.

Presidential Waiver of Congressional Review

This example of the process of considering a joint resolution of disapproval illustrates the difficulties the Congress may face if it wishes to block by legislation a proposed arms sale within the 30-calendar-day formal review period set out in *current* law. Yet it is important to note that the President also has the legal authority to *waive* the 30-day statutory review period set out in the Arms Export Control Act.

If the President states in the *formal* notification to Congress under sections 36(b)(1) or 36(c)(1) of the Arms Export Control Act that "an emergency exists" which requires the sale (or export license approval) to be made immediately "in the national security interest of the United States," he is free to proceed with the sale without further delay. He must provide Congress at the time of this notification a "detailed justification for his determination, including a description of the emergency circumstances" which necessitated his action and a "discussion of the national security interests involved."[5]

Conclusion

In the absence of a strong majority of support in both Houses of Congress for legislation to block or modify a prospective arms sale, the practical and procedural obstacles to passing such a law—whether a freestanding provision or one within the existing framework of the AECA—are great. Even if the Congress can pass the requisite legislation to work its will on an arms sale, the President need only veto it and secure the support of one-third plus one of the members of *either* the Senate or the House to have his veto sustained and permit him to make the sale.

Richard F. Grimmett is a specialist in national defense, Foreign Affairs and National Defense Division.

[1] *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919 (1983); *Process Gas Consumers Group* v. *Consumers Energy Council of America*, 463 U.S. 1216 (1983); and *U.S. Senate* v. *Federal Trade Commission*, 463, U.S. 1216 (1983). The Court's handling of the above cases indicates that both *concurrent* and one-House disapproval resolutions are unconstitutional as "legislative vetoes" even though none of these cases dealt specifically with the disapproval provisions in the Arms Export Control Act.

[2] On February 18, 1976, the Defense Department made a nonstatutory commitment to give Congress these preliminary classified notifications. On July 20, 1983, Deputy Secretary of State Kenneth W. Dam testified before the House Foreign Affairs Committee that despite the decisions of the Supreme Court in *INS* v. *Chadha* and related cases and the Administration's long-held belief that the legislative veto provisions in the Arms Export Control Act were unconstitutional, the Administration would continue to *report* to Congress "under the express statutory provisions" and the "informal prenotification." U.S. Congress. House. Committee on Foreign Affairs. The U.S. Supreme Court Decision Concerning the Legislative Veto. Hearings, 98th Cong., 1st Sess., July 19, 20, and 21, 1983. Washington, G.P.O., 1983. p. 69.

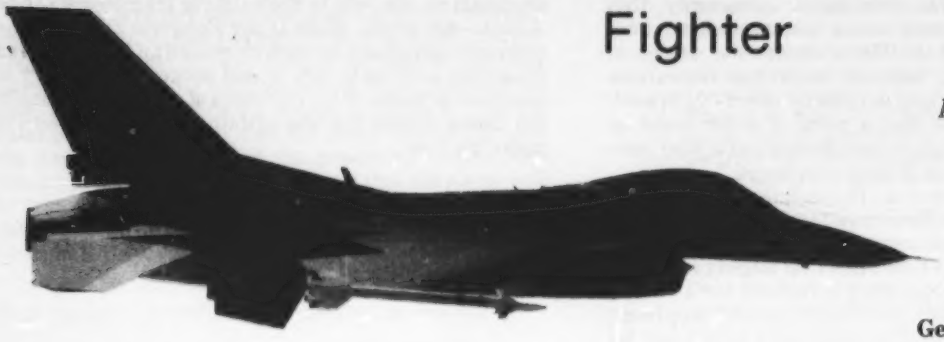
[3] Since 1980, this stipulation has also applied to resolutions of disapproval in the Senate relating to commercially licensed arms sales under section 36(c)(1) of the Arms Export Control Act.

[4] This interpretation is supported by the Senate debate of October 24, 1985 on S.J. Res. 228, a joint resolution relating to the sale of arms to Jordan. An effort by Senator Christopher Dodd to ensure that section 601(b) expedited procedures would apply to any *joint* resolution disapproving specific Jordan arms sales was blocked. See Congressional Record. October 24, 1985. p. S13990-S13993 [daily edition]. Subsequently, S. 1831, legislation that would clearly restore expedited procedures for joint resolutions of disapproval of arms sales was introduced on November 6, 1985. (Congressional Record. November 6, 1985. p. S14849-S18450 [daily edition].S.1831 passed the Senate by a voice vote on December 19, 1985.) And, on December 6, 1985, an amendment by Senator Dodd to H.J. Res. 465 (the continuing appropriations resolution—FY86) was passed by the Senate. This amendment (no. 1326) provided that expedited procedures under section 601(b) would apply in the Senate to any *joint* resolution disapproving certain Jordanian arms sales during the period from February 1-March 1, 1986. Congressional Record. Dec. 6, 1985. p. S17058-S17059 [daily edition]. Senator Dodd's amendment was enacted as section 549 of H.J. Res. 465 on December 19, 1985 (P.L. 99-190).

[5] Section 614(a) of the Foreign Assistance Act of 1961 (FAA), as amended, also allows the President to waive provisions of the Arms Export Control Act, the Foreign Assistance Act of 1961, and any Act authorizing or appropriating funds for use under either the AECA or FAA in order to make up to $750 million in *cash* arms sales and up to $250 million in *credits* available under the AECA during each fiscal year. Not more than $50 million in *credits* may be made available to any single country in a fiscal year unless it is a "victim of active Communist or Communist-supported aggression." To waive the provisions of these Acts related to arms sales, the President must determine and notify the Congress in writing that it is "vital" to the "national security interests" of the United States to do so. Before exercising the authority granted in section 614(a), the President must "consult with" and "provide a written policy justification to" the House Foreign Affairs and Appropriations Committees and the Senate Foreign Relations and Appropriations Committees. The *New York Times* reported in October 1981 that President Reagan was considering using this waiver authority when he faced considerable opposition in Congress to his proposed sale of AWACS aircraft to Saudi Arabia. New York Times, Oct. 16, 1981.

In Search of a Cheaper Fighter

BERT COOPER



General Dynamics F-16

What's ahead for the fighter aircraft F-16 Falcon and F-20 Tigershark?

By early 1986, 1,474 F-16 should have been delivered to U.S. and foreign air forces, currently at a cost of more than $15 million apiece. But only three demonstration models of the "economy size" F-20 have been built, with a projected price of about $13 million. What will Congress decide for the future of these fighters during the second session of the 99th Congress?

Procurement of the Northrop F-20 by the U.S. Air Force raises questions about the effects of competition on price and quality, the relative cost and performance of these aircraft, the implications for force structure and inventory, and the impact on the defense industrial base and foreign sales of US fighters.

Proponents of USAF procurement of the F-20 have argued that:

(1) the F-20 should be procured as the only available rival to the General Dynamics F-16, thus generating competitive pressure to reduce the price of theF-16;

(2) the Air Force cannot afford the high-cost capabilities of the standard F-16C, and its inventory objectives could be better met by procuring the smaller, less sophiticated, and more reliable F-20; and

(3) USAF procurememt of the F-20 would encourage foreign purchases of an American plane that would be more suitable to the needs of some of our allies than the F-16.

Those opposing USAF procurement of the F-20 have argued that:

(1) the F-20 is not a competitor to the F-16, since it is inferior to the F-16 in such relevant mission capabilities as range and payload, and the actual costs of procuring and operating the F-20 as a USAF system are unknown;

(2) F-20 prototypes have not been fully tested to Air Force standards and combat requirements, and the versions tested are significantly different from the version to be produced;

(3) the F-20 would introduce another type to USAF's current mix of six tactical aircraft and would require separate training and logistical systems. These issues are addressed in CRS Issue Brief 85204, Fighter Aircraft Competition; F-16 vs. F-20.

Last year there was growing congressional interest in the F-20 fighter as a competitive alternative to the F-16 fighters the Air Force is buying from General Dynamics. As a consequence of this interest, the FY 1986 defense authorization bill directed the Air Force to "establish during FY86 a competition for the procurement of fighter aircraft." Such a competition would involve at least the F-16 and the F-20, and possibly other fighters.

The Air Force did not request any funds for the F-20 in FY 1986, but the service included procurement of 120 F-20s in its initial planning projections for the FY 1987-91 period. In response to congressional and Air Force interest in the F-20 option,the Defense Department decided in August 1985 to direct the Air Force to conduct a competition during FY 1986 between the F-20 and an F-16 version.

Their performance capabilities for continental air defense missions would be compared on paper, rather than in a fly-off demonstration. Some 300 of the winning aircraft would be procured over a 5-year period for air defense of the continental United States and North America. Congress provided $200 million in FY 1986 funding to begin procurement of either F-20 or F-16 air defense planes, depending on the outcome of this competition.

The F-16 and the F-20 are single-seat, single-engine, supersonic fighters, armed with 20 mm guns and air intercept missiles as well as air-to-surface ordnance. Both planes are air combat fighters that can also be used in attack and close-air-support roles. However, there are significant differences between these aircraft with respect to performance and mission capabilities as well as development/production status. For example, the F-16 has the greater range and payload capabilities—how much greater depending on operating conditions and mission requirements—while the F-20 can take off more rapidly and promises to be easier to operate and maintain.

In contrast to the F-16's production line of nearly 1,500 planes, only three demonstration versions of the F-20 have been built. These prototypes have been tested and demonstrated since 1982, although the first two were lost in crashes (South Korea, 10/10/84; Labrador, 05/14/85). Northrop is now building two more aircraft in what it terms a "full production configuration." Compared to the earlier versions, these aircraft will have more engine

thrust, internal fuel, and wing area.

Northrop indicated in June 1985 that it would begin production of the F-20 if the U.S. Air Force ordered 180 aircraft in a multi-year program and allowed the F-20 to compete against the F-16 for other orders. Such a commitment by USAF would generate enough foreign sales to warrant production, according to some Northrop officials.

The F-20 was developed for export to allies who would be willing to buy aircraft less capable but more maintainable than high-performance US fighters. However, foreign governments have insisted on buying aircraft used by the US armed forces, such as the F-16—a fighter that has the prestige as well as pragmatic advantages of operational service with US, NATO, and Israeli air forces. For whatever reason, no foreign government has bought the F-20, which Northrop has actively marketed since 1980 through the fighter export (FX) program. As a foreign sales venture, the F-20 was developed at corporate expense, and Northrop reportedly invested more than $900 million in the program through 1985.

In April 1985, Northrop offered the Air Force 396 F-20s at $15.5 million (FY 1986-89 dollars) per aircraft, with some spare parts and maintenance items at a fixed price. In June 1985, General Dynamics made a counter offer to produce a less capable "specially-configured" F-16C version at a unit price of $13 million in terms comparable to the F-20's $15.9 million price. Each of the 180 standard model F-16Cs procured in FY 1986 costs over $20 million (FY 1986 dollars), counting various program costs not included in these F-20 and F-16 proposals.

The Congressional Budget Office has estimated the unit procurement costs of these three aircraft in constant FY 1985 dollars as follows:

$15.6 million for each standard F-16C;

$12.8 million for each F-20;

$10.9 million for each specially-configured F-16C.

According to these estimates, the F-20 would cost 82 percent of the standard F-16C's procurement figure, while the specially-configured F-16C would cost 70 percent. The cheapest option would thus be to procure the specially-configured—and less capable—F-16C version, which would also entail less technical risk than with the F-20 as a new aircraft not yet in production. However, such a course would not introduce the degree of competition in procurement of fighter aircraft that many people think desirable and believe possible via the F-20.

The interest in competition has arisen out of concern about the affordability of USAF's force structure and inventory goals. For many years, the Air Force has planned to increase its tactical fighter wings from 36 to 40 or more wings, while modernizing these forces with F-15 and F-16 fighters and retiring older aircraft such as F-4s and A-7s at an average age of 20 years. Because of budgetary constraints and rising costs in tactical aviation, however, it has not been possible to achieve all of these goals.

The Air Force now operates six types of fighter/attack aircraft: the F-15, used for all-weather air-to-air combat; the F-16, used in both air combat and air-to-surface roles; the F-4, now used mainly for air-to-surface attack; the A-10 and A-7 attack planes, used for close air support and battlefield air interdiction; and the F-111, used in long-range, all-weather interdiction/attack roles. North American continental air defense is performed by F-4s and F-15s as well as some aging F-106s that are being replaced by F-16s.

The F-20 could be used for continental air defense as well as in close air support roles, according to its advocates, who claim it would be more cost-effective than the F-16 in these missions. The F-16 has been in service since 1979, with 1,327 U.S. F-16s funded through FY 1986. These aircraft represent almost half of an acquisition program that began in 1975 and is expected to continue into the mid-1990s.

Bert Cooper is a defense specialist, Foreign Affairs and National Defense Division.

CRS Reports:

Fighter Aircraft Competition: F-16 vs. F-20, Issue Brief 85204, by Bert Cooper.

Tactical Aviation: F-20 Fighter Aircraft (Weapons Facts), Issue Brief 85186, by Bert Cooper.

HOW THEY DIFFER:	F-16	F-20
Range (expressed as ratio)	1.0	.7
Payload (max. eternal stores)	12,000 lb	8,300 lb
Empty Weight	15,600 lb	11,800 lb
Internal Fuel	7,000 lb	5,000 lb
Wing Span	31'	26'8"
Wing Area	300' sq	200' sq
Length	49'6"	46'6"
Height	16'8"	13'10"

Based on data in Jane's All the World's Aircraft, 1984-85.)

General Dynamics F-16

ARTHUR F. MANFREDI, JR.

HUMANS ON MARS?
PROBABLY NOT UNTIL THE 21ST CENTURY

Man has dreamed of setting foot on Mars for many years, and there has been scientific interest (official and unofficial) in both the United States and the U.S.S.R. in a manned mission to the "red planet." Some space visionaries view Mars as attractive in the distant future for coloinzation and even for commercial endeavors such as mining. But mounting a manned mission to Mars presents a formidable technological challenge, and would be extremely costly. Even taking an optimistic set of circimstances—an international collaborative venture, a decision within the next several years to proceed, and the availability of the necessary resources—it is very doubtful we could walk on Mars before the year 2000. Of slightly higher probability is the prospect that the Soviets will attempt a manned Mars flyby shortly before or at the turn of the century.

Background

Since the Apollo program ended, the U.S. manned space program turned its attention to the shuttle and now to the space station. But interest remains in manned travel to other planets. Mars is the most appealing. It is our nearest neighbor next to Venus and not nearly as inhospitable.

The differences between the two planets are striking. Venus' atmosphere is thick, many times denser than Earth's, and composed mostly of carbon dioxide. We have never seen the suface from Earth for this reason. The surface temperature is so high as to be above the melting point of some metals. There is thus no liquid water on the surface. Mars' atmosphere is very thin, also mostly carbon dioxide. Temperatures on Mars have a seasonal variation, but are generally colder than those on Earth. Mars appears to have have water in the form of icecaps at both poles. Indeed, the surface channel features (incorrectly termed canals by early observers)

Earth rises over the moon

are evidence that water once may have flowed on Mars' surface.

Mars has fascinated humans for centuries. Observations of the "canals" early in this century were used to support the notion of an intelligent civilization. And, science fiction writings are replete with characterizations of "Martians" of various and sundry forms.

The possibility of life of some type on Mars is still arguable. Study to date is not conclusive, and speculation continues on the remote possibility of evolution of life forms based on different chemical building blocks.

Exploration of Mars does have considerable scientific basis. Analysis of Martian soil could provide valuable clues to the evolution of the solar system. And we want to learn about the chemistry, geology and meteorology of another planet for both their intrinsic scientific value and also as they may help us better understand our own planet. Table 1 gives some comparative characteristics of Earth and Mars.

TABLE 1. Characteristics of Earth and Mars

	Earth	*Mars*
Number of Moons	1	2
Equatorial Radius (km)	6,378	3,398
Mass (relative to Earth)	1	0.107
Surface Gravity (gs)	1	0.377
Distances		
—From Sun (min./max.) (million km)	147/152	202/249
—From Earth (min./max.) (million km)	—	55/401
Length of		
—Day	23h 56m	24h 37m
—Year	365 1/4 days	687 days

The first credible proposal for sending people to Mars was made by Wernher von Braun in his seminal work "Das Marsprojekt," originally published in 1952. Between 1961 and 1966, NASA had various aerospace companies study the idea, and all through the 1960s various studies and papers proposed technical and conceptual approaches.

Some NASA engineers felt that a Mars landing mission was feasible in the 1970s using Apollo technology. Others held that more advanced technology would be needed. Cost estimates of $40-50 billion (1963 dollars) were derived from these studies. Interest waned, however, as budgetary pressures from the Vietnam War developed and competing unmanned probes were approved.

Through the 1970s, interest in a manned Mars mission continued, albeit among only a few enthusiasts. In the early 1980s, technical meetings were held, involving NASA officials and various scientific and technical societies. In July 1985, the idea of a joint U.S.-Soviet manned mission to Mars was proposed at a meeting in Washington commemorating the 10th anniversary of the Apollo-Soyuz Test Project.

NASA Administrator James Beggs was quoted as saying: "Humans on Mars? Why not?" And former astronaut and U.S. Senator Harrison Schmitt said: "We want to be there." Others at the meeting, such as Astronomer Carl Sagan, Astronaut Sally Ride, and Senator Spark Matsunaga, as well as Soviet Cosmonauts Alexei Leonov and Valery Kubasov, were supportive of such a venture.[1]

The stunning success of unmanned probes, both ours and the Soviets', has already brought a wealth of scientific information to us about Mars. More and better data about the soil and weather of Mars could certainly be obtained by explorers. But motivations of national prestige, superpower cooperation or competition, long term space prospects, and beckoning frontiers because "they are there" would have to inspire such an undertaking.

Orbital Mechanics—Timing is Everything

There are two types of missions. One is a flyby, which "loops" around the planet and immediately returns. The other enters orbit around Mars, and thus can support a landing.

Because of the differing orbits of Earth and Mars (Mars is on the average about 50 percent farther from the Sun and there are almost two Earth-years to one Mars-year), efficient launch opportunities are infrequent. But these "launch windows" do occur at regular intervals and known times. The best opportunities for flyby occur twice about every 26 months, alternately separated from each other by 9 and 17 months. An optimum opportunity for Mars orbit, assuming a minimum-energy trajectory, occurs only every 26 months.

Both mission types have their advantages and disadvantages. A minimum energy Mars orbit mission requires about 2½ years for a round trip, including about one year in Mars orbit. This is a sustantial amount of time to perform a landing, and to explore and collect samples and other data. (The one year stay-time is required to wait for proper alignment of the two planets to allow a minimum-energy return). But such a long mission would exacerbate the deleterious effects of weightlessness on the crew and require considerable life support stores. A Mars orbit mission any shorter requires considerably more energy.

The flyby mission takes only one year for the round trip, so weightlessness effects and life support requirements are reduced. It would require more energy, however, than the minimum energy orbital mission.

In stark contrast to the one-year stay time of the minimum-emergy mission, the flyby mission would encounter Mars (i.e. be within 34,000 km (10 Mars radii) of Mars) for only about 2½ hours. The scientific gain of such a mission over an unmanned mission in terms of data about Mars is thus virtually nil, although, as with the Apollo program, it may be a useful precursor to later landing missions. Table 2 summarizes the approximate trip times of the two missions.[2]

TABLE 2: Approximate Trip Times

	Mission	
	Flyby	*Orbital*
Earth to Mars	250 days	250 days
Stay Time	—	400 days
Mars to Earth	115 days	250 days
Totals	365 days	900 days

Technological Challenges

The long mission durations and travel distances dictate advanced propulsion and life support requirements

for the manned Mars vehicle, as well as capabilities to place heavy and large components into Earth orbit for subsequent on-orbit assembly of the vehicle. Nuclear propulsion is most attractive from a weight and volume standpoint, but would require more research and development (R&D) than conventional liquid propulsion systems. Although some R&D on nuclear propulsion is underway and appears promising, it is doubtful the technology would be available before 2000.

In similar fashion, a closed life support system (wherein wastes are recycled) is more attractive than an open one, but again requires more R&D. In contrast to nuclear propulsion, closed life support system technology could be in hand by as early as 1990 for use in the space station now under development.[3]

A variety of novel techniques have been suggested to minimize the propellant weight requirements of a manned Mars vehicle. One involves separate go and return vehicles, launched at different times. Since each would need less propellant than a single, round-trip vehicle, their individual weights would be lower. This would allow more scientific equipment to be carried by the go vehicle, since it would not have to carry the propellant for the return tup. Another suggestion is to use aerodynamic, rather than propulsive braking to slow the return craft as it reaches the Earth. Aerodynamic braking involves having the return craft "dip down" into the Earth's atmosphere to slow it down prior to entering orbit around Earth. Yet another suggestion is placing a space station in geosynchronous orbit to support launches of a variety of interplanetary probes, including manned. These and other ideas are being studied at very low funding levels in various U.S. Government and private organizations.

In space...A view of earth

Depending on the type of propulsion and life support systems used, and the type of mission, total vehicle weights in Earth orbit anywhere from 260,000 to 3,000,000 pounds would be required. This would in turn necessitate many launches from Earth of the propellants and structural components, and sophisticated onorbit assembly. (As a point of reference, the shuttle can place about 65,000 pounds in low earth orbit. The previous figures therefore equate to between 4 and 45 shuttle flights. A hevy lift launch vehicle with more capability would have clear benefits for such an endeavor.) Thus, it could easily require six months or more, and would probably presuppose a space station, to assemble a manned Mars vehicle for either mission.

A Joint Mission?

The United States and the U.S.S.R. could contribute needed technological expertise and support to a joint mission, assuming a conducive political climate. The United States possesses the experience of manned travel to the Moon, and has a space station under design. The station will provide knowhow with on-orbit assembly techniques as well as being available later to support assembly of a Mars vehicle. The U.S.S.R. has experience with long duration manned space flight, has under development a heavy lift launch vehicle, and has conducted research on closed life support systems. Also, the Soviets have recently stated an intention for a permanetly manned space station in 1990. Prospects for a cooperative venture between the United States and its European and Japanese Allies seem dim for the near term at least. Work on the space station program plus many unmanned programs will probably fully commit their available resources for the foreseeable future.

Or Go It Alone?

Either the United States or the U.S.S.R. could undertake a manned Mars mission unilaterally. But cost estimates in the $40-100 billion range have resulted from the various studies which have been made. Given the U.S. space station schedule and the projected budget deficits, it is difficult to conceive of a positive decision any time in at least the next five years.

The Soviets may be better positioned for a unilateral mission, around the year 2000. As noted earlier, they have much more experience with long duration spaceflight, a heavy lift launch vehicle under development, plans for a space station, and have done research on closed life support systems.

Conclusions

Human beings probably will someday land on Mars. Our nature is such that we are driven to explore the unknown, which, to some, seems reason enough.

The United States, committed to a position of leadership in space, could choose a manned Mars mission as a centerpiece of its space program in the early 21st century. And the Soviets, having lost the race to the Moon, may gain prestige by a probe around the year 2000. The sheer magnitude of the undertaking could make a joint venture attractive to both countries, and may argue more persuasively for an international venture with many spacefacing nations participating.

Arthur F. Manfredi, Jr. is a specialist in aerospace policy, Science Policy Research Division.

REFERENCES

von Braun, Wernher. The Mars Project (1962). University of Illinois Press, Urbana.

Ezell, Edward Clinton and Linda Neuman. On Mars (1984). U.S. Govt. Print. Off., Washington, D.C.

[1]Time, July 29, 1985. p. 67

[2]Colonizing Mars, by Marsha Freeman, Fusion, Nov.-Dec. 1985 p. 18-28

[3]Space Station Program Description Document, NASA TM-86652, March 1984

HARRY GOUREVITCH

ANALYSIS OF THE TAX REFORM BILL

Harry Gourevitch is a senior specialist, taxation and fiscal policy.

Early in 1986 the Senate Finance Committee is due to take up the massive tax-reform bill (H.R. 3838) recently passed by the House. On an overall basis the bill's changes in the tax law are approximately revenue neutral for the five years 1986-1990. During this period the bill reduces individual taxes by about $140 billion and increases corporate tax collections by about the same amount.

Basic tax reform-rate reduction through broadening of the tax base - is an issue that has been around for many years. This most recent effort began with President Reagan's instructions in his 1984 State of the Union message to the Treasury Department that it devise a plan to make the Federal Income tax system simpler, more efficient-and more equitable. Such a plan (Treasury I) was unveiled by the Treasury Department in late November 1984. Following consultations within the Administration and between the Administration and various interest groups, in May 1985 the Administration issued a revised tax reform plan (Treasury II). Treasury II in turn led to H.R. 3838, which was crafted by the Ways and Means Committee of the House.

This article examines some of the major individual and business provisions of H.R. 3838.

Major Individual Changes.

Current rates which range from 11 to 50% in fourteen tax brackets (15 for individuals) would be lowered to just four brackets of 15%, 25%, 35% and 38%.

For single taxpayers the rates would be 15% on taxable income up to $12,500, 25% on taxable income from $12,500 to $30,000, 35% on taxable income from $30,000 to $60,000, and 38% on income in excess of $60,000.

For taxpayers filing jointly, the rates would be 15% on taxable income up to $22,500, 25% on taxable income from $22,500 to $43,000, 35% on taxable income from $43,000 to $100,000, and 38% on income in excess of $100,000.

The personal exemption would be increased from the current (1985) $1,040 to $2,000. (Under present law that exemption would increase to $1,080 in 1986.) However, for persons who itemize deductions the first $500 of itemized deductions would be disallowed, effectively reducing the personal exemption for itemizers to $1,500.

A standard deduction would replace the zero bracket amount. For 1986 the standard deduction would be $2,480 for single taxpayers, $3,670 for taxpayers filing joint returns and $2,480 for taxpayers filing as heads of households. Starting in 1987 the standard deduction would be $2,950 for single taxpayers, $4,800 for taxpayers filing joint returns and $4,200 for taxpayers filing as heads of households. These amounts compare to zero bracket amounts for 1985 of $3,540 on a joint return, $2,390 on a single return and $2,390 on the return of a head of household. The zero bracket amounts are indexed for inflation under current law and the bill would similarly index the amount of the standard deduction starting in 1988.

The current deduction of up to $3,000 for two-earner married couples would be repealed. The Ways and Means Committee's report states that repeal of this deduction is compensated for by adjustments made to the standard deduction for married couples filing jointly and in the relationship of the rate schedules for single taxpayers and joint filers.[1] These adjustments reduce but do not eliminate the "marriage penalty."

Long-term capital gains realized by individuals would be taxed at a maximum 22% rate, versus a maximum 20% current rate. This new rate would be achieved by allowing a net capital gain deduction of 42% and multiplying the remaining 58% of the gain by the 38% maximum tax rate.

The refundable earned income credit, which now amounts to 11% of the first $5,000 of earned income for a maximum of $550, would be increased to 14% of the first $5,000 of earned income for a maximum of $700. The current phase-out ceiling of $10,000 of adjusted gross income would be raised to $13,500 in 1986 and $16,000 starting in 1987. Unlike current law, the maximum amount of the credit and the amount of the phase-out ceiling would be indexed for inflation.

The temporary deduction of charitable contributions by nonitemizers which was scheduled to expire at the end of 1986 would become permanent starting in 1986 for contributions in excess of $100. Thus, the first $100 of charitable contributions would not be deductible by nonitemizers.

The bill retains the full deduction for interest paid on loans secured by a principal residence and a second residence. The deduction of all other nonbusiness interest is subject to an annual ceiling equal to $20,000 ($10,000 on a single or separate return) plus the taxpayer's net investment income. Included under this ceiling is a taxpayer's allocable share of interest paid by a limited partnership in which he is a limited partner. Under current law such interest payments allocable to a limited partner are not subject to the investment interest limitation.

In the area of pension benefits, the bill would cut back the benefits of cash or deferred qualified pension arrangements under which an employee can elect to defer up to $30,000 of compensation annually. The bill would reduce the employee's elective deferral to a maximum amount of $7,000 per year. In addition, the bill would coordinate an individual's elective deferral of compensation with his annual IRA contribution so that the IRA annual deduction limit of $2,000 would be reduced dollar for dollar by the amount of the elective deferral.[2]

Major Corporate and Business Changes.

The top corporate rate would be 36% on taxable income in excess of $75,000 compared to a current top rate of 46% on taxable income of $100,000. For businesses with small amounts of taxable income there would be graduated rates of 15% on taxable income up to $50,000, and 25% on taxable income between $50,000 to $75,000. The benefit of the lower rates would be phased out for corporations with more than $365,000 of taxable income. Under current law the lower corporate rates phase out at $1,405,000.

The corporate capital gains rate of 28% would be repealed and corporate capital gains would be taxed as ordinary income. Corporations would have the benefit of a new deduction for dividends paid which when fully phased-in would allow a corporation to deduct 10% of dividends paid to shareholders. The deduction would be phased-in over ten years at a rate of 1% a year. The dividends received deduction would be phased-down from 85% to 70% by 1995.

The 10% investment tax credit now available on business purchases of certain depreciable personal property would be repealed. The current 15%, 20%, and 25% investment tax credits for expenditures on the rehabilitation of certain older buildings, including certified historic structures, would be replaced with a credit of 20% for the rehabilitation of nonresidential buildings placed in service before 1936. The temporary 25% credit for incremental research and experimentation expenditures which expired at the end of 1985 would be extended for three more years at a credit rate of 20%.

The bill would overhaul the depreciation system. The current accelerated cost recovery system (ACRS) is to be replaced by 10 classes of depreciable property with write-off periods ranging for 3 to 30 years. The system would use the double-declining balance method of depreciation for all classes of property except real estate (other than low-income housing) which would use straight-line depreciation. Starting in 1988 depreciation deductions would be partially adjusted to take into account the effect of inflation. The depreciation deduction would be multiplied by 1 plus one-half the inflation rate over 5 percent.[3]

The Minimum Tax.

The 20% alternative minimum tax on individuals would be strengthened and the rate increased to 25%. A new 25% alternative minimum tax on corporations would replace the current add-on minimum tax on corporations. The alternative minimum tax essentially represents a parallel tax system requiring separate computations of tax liability under the regular income tax and the alternative minimum tax. A taxpayer would be liable to the alternative minimum tax if it resulted in a greater tax liablility than under the income tax. The bill would add a number of preference items to the alternative minimum tax base, including the tax-exempt interest on certain "nonessential function" municipal bonds, the exempt foreign trade income of a foreign sales corporation, the excluded foreign earned income of individuals, and certain non-liquidating losses in excess of a floor from investments in a limited partnership or other passive investment.

Discussion.

This is an elephant of a tax bill: it is huge and it is difficult to know from which end to approach it. Whether a particular taxpayer would obtain a tax cut from the bill would depend of course on his particular economic situation. On average the bill would reduce income tax liabilities of all income classes by 6.6%, with larger percentage reductions going to low income classes.[4] 72% of the individual cuts would go to individuals with less than $75,000 of income, 28% to individuals with incomes above $75,000.[5]

It is noteworthy that the individual tax cuts would be accomplished by shifting tax collections from individuals to corporations, at least during the period 1986-1990. There is virtually no broadening of the individual income tax base. Thus, the deduction for state and local taxes would remain intact. Similarly, the current tax exemption for most fringe benefits is left untouched. There are only limited cutbacks in the deduction for interest payments which will apply only to high income taxpayers whose annual interest payments exceed the sum of $20,000 and net investment income. A charitable contribution deduction for nonitemizers would be made permanent. Almost the only base broadening involves such relatively minor revenue items as the repeal of the partial tax exemption for unemployment compensation. The deduction for business meals and business entertainment has also been pared back.

The deductibility of business meals and entertainment has been a troublesome area for Congress since at least the 1960s because of the dual nature of such expenditures as personal consumption and business activity. The bill's treatment of business entertainment and business meals illustrates some of the difficulties of trying to deal with a situation that is widely perceived by the public as abusive. Treasury I would have sharply cut back the deduction to $10 for breakfast, $15 for lunch and $25 for dinner. No deduction would have been allowed for entertainment expenses. Treasury II would have limited the cutback to allow a deduction for each business meal of $25, plus 50% of the excess, though the deduction for business entertainment would still have

been disallowed. What the Ways and Means Committee finally agreed to was a 20% cutback in the deduction for both business meals and entertainment. If the Committee's revenue estimates are reliable, this modest cutback would yields additional tax revenues of roughly $10.3 billion over the five years 1986-1990.

While for the most part H.R. 3838 does not attack tax preferences head on, it does so indirectly through a toughened minimum tax on individuals and corporations. The minimum tax provisions reflect the Committee's view that while the various special deductions, exclusions and credits in the law provide incentives for worthy goals, a taxpayer with significant amounts of economic income should not be allowed to use these preferences to erase his tax liability. For the five years 1985-1990, the revenue pick-up from the the minimum tax is estimated at about $19 billion from individuals and at about $5.8 billion from corporations.

One interesting change involves the capital gains rate of individuals. With a maximum capital gains rate of 22% and a top marginal rate of 38% H.R. 3838 would reduce the differential between ordinary income and capital gains from the 30 point differential of current low to 16 points.

How does the bill measure-up under the criteria of economic efficiency, tax equity and simplification?

In the area of business taxation the principal changes are the repeal of the investment tax credit, the stretch-out of depreciation periods for capital assets to approximate economic depreciation, and the reduction in the corporate rate from 46% to 36%. In addition, certain specific industries, including banks, timber, and oil and gas would see their tax benefits reduced. A major issue raised by the bill is how these changes would affect corporate investment. Business is divided on the issue. The U.S. Chamber of Commerce, many of whose members are in capital-intensive industries, opposes the repeal of the investment tax credit and the less generous depreciation allowances. The Chamber has urged that the bill be scrapped. High-tech companies and companies in service industries generally support the bill because they rely less on depreciation allowances and the investment tax credit and they would benefit from the lower corporate rates. The Republican alternative in the House would have retained a 5 percent investment tax credit. Economists also appear to be divided on the issue. On the one hand, the bill's cutback of capital recoupment provisions and the reduced value of interest deductions due to the lower corporate rate suggest that the bill would raise the cost of investment in the corporate sector, at least for corporations relying on debt rather than equity financing.[6] For corporations relying on equity financing there may be no increase in cost.[7] On the other hand, the bill would make tax rates on different kinds of investments more nearly equal than under present law. Will the economy react more to increases in the after-tax cost of debt-financed capital or to the allocational efficiencies resulting from a more "level playing field"? There appears to be no clear answer.[8]

Measured against the two standards of tax equity—that persons with equal income should pay equal taxes and that taxes should rise as income rises—the bill has two principal accomplishments to its credit. First, according to the Ways and Means Committee's estimate more than 6 million low-income individuals would be removed from the tax rolls as a result of increases in the standard deduction, personal exemption and earned income credit.[9] Second, a strengthened alternative minimum tax and other changes seek to prevent high-income individuals from avoiding or deferring taxes through the use of tax shelters.

On the other hand, an individual receiving his income in the form of excludable fringe benefits or as preferentially taxed capital gains would continue to be taxed more lightly than an individual receiving the same amount of income in the form of wages.

The bill's increase of the personal exemption to $2,000 only for nonitemizers and to $1,500 for itemizers has been criticized by those advocating a $2,000 exemption for all as "antifamily." The issue of expanding the personal exemption also came up during congressional consideration of the proposed Economic Recovery Tax Act of 1981. At the time, then Secretary of the Treasury, Donald T. Regan, argued against increases in the personal exemption, as opposed to rate reduction, on the ground that a higher personal exemption reduces average rates, whereas, incentitives to save, invest and work are increased by cuts in marginal rates.[10] According to that view the emphasis in tax reduction should be on rate reduction rather than expansion of the personal exemption.

Measured against the standard of simplification of the tax law, the bill's main accomplishments appear to be that it may substantially reduce the number of itemizers, who would be encouraged to file nonitemized returns because of the increases in the standard deduction and the personal exemption for nonitemizers, and that it drops many off the tax rolls. At the same time, it is difficult to describe as a triumph of simplification a bill that is 1363 pages long.[11]

[1]House Report No. 99-426, 5.

[2]Example: An individual with income of $20,000 who makes an elective deferral of $1,500 under a qualified cash or deferred arrangement would be allowed to contribute to his IRA for that year only $500 instead of $2,000. House Report No. 99-426, at 684.

[3]Example: A 7% inflation rate would result in an increase of the depreciation deduction of 1.01. House Report No. 99-426, 154-5.

[4]House Report No. 99-426, 85, Table 2.

[5]ibid.

[6]Henderson, Yolanda K., Investment Incentives Under the Ways and Means Tax Bill, Tax Notes, December 9, 1985, pages 1059, 1061.

[7]"In general, the results suggest that corporations that now use predominently equity finance could see little, and possibly no, increase in their cost of investment if the Ways and Means proposal were enacted." *Ibid.*

[8]See the debate on this issue relating to Treasury II between Jane Gravelle and Michael Boskin in, *The Business Tax Issue: Two Views*, Tax Notes, November 11, 1985, pages 651-654.

[9]House report No. 99-426, 58.

[10]In testifying before the Ways and Means Committee, Donald T. Regan, then Secretary of the Treasury, stated: "To be effective in achieving our goals of restoring individual's incentive to work, to save, and invest, we must focus our attention on reducing marginal tax rates, not average tax rates. It is the amount of tax on the next dollar of income that affects decisions to work, save, and to invest. To succeed in reducing these tax barriers we need to cut marginal tax rates, rather than to increase personal exemptions, or zero bracket amounts, or undertake similar tax changes." Hearings on Tax Aspects of the President's Economic Program, p. 7, February 24, 1981, Ways and Means Committee, House of Representatives, 97th Cong., 1st. Sess.

[11]As stated by Congressman Bill Frenzel in his dissent to the Ways and Means Committee report: "It took the Committee only 1,363 pages to write its 'simplification' bill. That says it all." House Rept. No. 99-426, 1075.

In 1984, 13 million children under the age of 18 were counted as poor by official U.S. government estimates. Over half of all children living in female-headed families were poor; one in every three black children and almost three in every 10 children of Spanish origin were poor. As stark as these facts are, they tell only part of the story. Annual poverty statistics are based on a survey of the U.S. population taken at a single point in time. But how do the economic fortunes of particular American children change over time? Do most children who are poor remain so throughout childhood or do children who are poor continue that way for only a short period?

DYNAMICS OF CHILD POVERTY

KENNETH CAHILL

This article examines childhood poverty by tracking children and their families over time. The Survey Research Center of the University of Michigan has collected such information on 5,000 American families since 1968. This survey, the Panel Study of Income Dynamics (PSID), is the only reliable source of income and demographic information for a representative sample of American families over a significant number of years. During the last few years, data have become available for a sufficient number of years to permit statistical inferences about the dynamics of poverty.

Several caveats are in order. It is risky to draw conclusions from only one source. Potential problems of sample bias or error are difficult to evaluate without independent replication of results from other samples. Unfortunately, collecting such information on individuals over a long time period is difficult and expensive and other comparable sources of data do not exist. The PSID has been subjected to close scrutiny and retains its credibility. Nevertheless, the reader should consider the findings to be tentative.[1]

Duration of Poverty

PSID research indicates that poverty during childhood is widespread, but most of it is relatively short term. A small but significant percentage of children, however, are poor throughout most of their childhoods. Duncan and Rogers (85) observe that over one-third (33.9 percent) of all children who were 1 to 3 years old in 1968 spent at least one year of their childhood in poverty.[2] Of this group, about two-thirds spent 4 or fewer years in poverty, 20 percent were poor from 5 to 9 years and 14 percent were poor for at least 10 years. This last group, which the researchers classify as persistently poor, makes up about 5 percent of all children.

Bane and Ellwood (83) use a somewhat different method to measure the duration of poverty. Their method attempts to "complete" spells of poverty that may have begun before or ended after the PSID survey period. Table 1 estimates the percent of all poverty spells between 1969 and 1978 that lasted a given number of years. The results are generally consistent with other PSID research.

TABLE 1
Spells of Poverty for Non-Elderly Persons
[In percent]

Spell length in years	Persons beginning a spell at an time during survey	Persons observed poor at any point in time during survey (average)
1	41.1%	9.7%
2-3	27.7	15.5
4-7	13.2	15.8
8+	18.0	59.1
Total	100.0	100.0

Source: Ellwood and Bane. Slipping Into and Out of Poverty: The Dynamics of Spells.

Most spells of poverty last a relatively short time. Almost 70 percent lasted 3 years or less, with over 40 percent lasting 1 year. Using this methodology, 18 percent of the spells of poverty were lasted 8 or more years. It should be noted that Table 4 is for all non-elderly persons. Bane and Ellwood do not present this information for children alone. Given other evidence, the basic patterns probably hold for children as well, but this is not known for sure.

A second interesting result is observed by comparing the first and second columns of Table 1. When a spell of poverty begins, it is likely to be short (column 1), but persons observed poor at a point in time are likely to be experiencing a long spell of poverty (column 2). Although the persistent poor are a relatively small proportion of those who ever become poor, they make up a majority of the total "years in poverty" experienced by the population.

Finally, Duncan and Rogers report that children observed in the PSID spent an average of 1.5 years of their childhood in poverty, with significant variation by race. Bane and Ellwood estimated that the average length of a complete spell of poverty for all non-elderly persons was 4.2 years.

Poverty Dynamics and Race

Although only 5 percent of all children were persistently poor, almost 30 percent of all black children were in this situation (see Table 2). In the PSID sample, almost 90 percent of the children who were poor for 10 or more years of their childhood were black. Conversely, white children made up about three quarters of the short-term (1 to 4 years) poor children. The probability of poverty of any duration is much higher for blacks than whites. In addition, only 13 percent of all black children live in families with incomes above 150 percent of poverty throughout their childhoods; the comparable figure for nonblack children is 56 percent.

Black dominance of long-run poverty is reinforced in Table 3. On average, black children spent over one-third (5.4 years) of their childhood (first 15 years) poor. White children averaged only 5 percent (0.8 years) of their childhood poor.

What underlies the difference in economic well-being between black and white children? Since the incidence of poverty is over four times as high in female-headed

TABLE 2—*Incidence of Short-Term and Persistent Poverty of Children by Race*

	White	Black
Poor from 1 to 4 years out of 15 years	19.8	32.3
Poor from 5 to 9 years out of 15 years	4.6	17.7
Poor from 10 to 14 years out of 15 years	0.6	24.0
Poor all 15 years of childhood	0.0	4.9

Source: Duncan and Rogers. The Prevalence of Childhood Poverty.

TABLE 3—*Expected Years of Childhood Poverty Out of First 15 Years of Life*

	Nonblack	Black
All Households	0.8	5.4
Characteristics of Household at Birth of Child:		
Never Married Mother	6.2	6.0
Teenage Mother	1.2	5.4
Education of Head:		
8 years	1.2	5.6
12 years	0.7	5.3
Characteristics of Household Throughout Childhood (15 years):		
Head Disabled	3.3	10.9
Lived in South	0.8	6.4
Lived Out of South	0.7	4.3
Large City	0.7	3.9
Rural Area	1.1	8.1
1 Parent	3.2	7.3
2 Parent	.5	3.0

Source: Duncan and Rogers. The Prevalence of Childhood Poverty.

than male-present families and since more than half of all black children live in female-headed families, much of the blame for high poverty rates is often placed on black family structure. Evidence from the PSID indicates that while the high incidence of black children living in female-headed families contributes to the long periods they spend in poverty, the problem is more complex.

Information in Table 3 suggests that, in general, family characteristics have a greater influence on the poverty of white children than black children. For example, being born to a white, never-married female increases the expected number of years of child poverty by almost 700 percent (from 0.8 years to 6.2 years), while the corresponding increase for black children is just 10 percent (from 5.4 years to 6.0 years). The only family characteristics that have a similar impact on black and non-black children are disability of the household head and living in a one-parent family (both for the full 15 years of childhood).

Duncan notes that "When one compares the expected poverty of black children living with only one parent throughout childhood (7.3 years of poverty out of 15) with expected poverty in intact families (3.0 years), it is clear that family structure is an important factor ... Coincidently, 3 years is the expected amount of poverty for white children living with only one parent throughout childhood—so black children in stable two-parent families fare no better than white children in one parent families!"[4]

Clearly, for black as well as nonblack children, factors other than family structure affect a child's economic well-being, and the following section examines factors that are associated with childhood transitions into and out of poverty.

Transitions Into and Out of Poverty

Of course the events and circumstances that lead a child into or out of poverty are largely beyond the child's

continued on page 22

TRUCKING INSURANCE PROBLEMS

STEPHEN J THOMPSON

Premiums being charged the trucking industry for property, liability, and environmental restoration insurance have risen significantly during the last year. Some trucking companies report being unable to obtain insurance. There are, however, "assigned risk pools" in every State and in the District of Columbia, through which a trucker who is refused on the open market ought to be able to obtain insurance. Companies in the "pools" sell that particular type of insurance within that State. Insurance on some hazardous substances might not be available to truckers at all — insurers having withdrawn from writing insurance on those commodities.

Current problems with insurance are not unique to the trucking industry, nor do they appear to be more intense than for other segments of the economy, including groups such as city and state governments, police, teachers, doctors, and day-care centers. Some firms have stopped manufacturing some hazardous substances on which they were unable to obtain adequate insurance.

The Interstate Commerce Commission (ICC), Department of Transportation (DOT), and some congressional subcommittees are studying trucking insurance problems. The ICC is considering allowing some forms of self insurance, or other alternatives to insurance purchased from an insurance company.

A common sight on America's highways

Recent Events

Many trucking firms are paying premiums as much as twice the level they were paying one year earlier and, in some instances, as much as five times the earlier price. There are conflicting reports on the availability of insurance, with some trucking interests saying that insurance is unavailable, and some insurance interests stating that insurance is available through assigned risk pools. These conflicting reports on the availability and affordability of insurance for truckers might be resolved during coming months as a result of studies underway at the Department of Transportation and the Interstate Commerce Commission, as well as through the hearing record being developed by the Congress.

Causes of the Problem

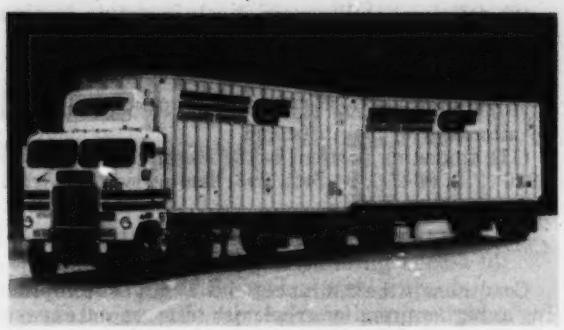
Insurance markets are subject to cycles that affect the willingness of providers to write policies. From about 1979 to 1984, premiums on many types of insurance were flat, and some premiums even declined (in current dollars) as insurance companies engaged in intensive price competition to generate premiums for investment purposes and to increase or maintain market share. A high return on investment from premium income (resulting from high interest rates) intensified the incentive to write policies at low premiums because the high income on investments compensated for low premiums.

The 'premium war' ended in 1985, when some insurance companies withdrew from certain lines of insurance, and other companies withdrew from the insurance business altogether. That should have improved conditions in the insurance industry. But, concurrent with rising premiums, interest rates declined and the number and size of insurance claims remained high. Consequently, reserves to pay claims fell significantly during 1984 and 1985.

In addition to the market cycle, higher numbers and amounts of claims paid by insurance companies are believed to be a significant contributor to the current insurance "crisis". These claims are thought to have several causes: court awards are often far higher today than for similar factual findings in the past, and court interpretations of concepts such as joint and several liability, absolute liability, and "sudden and accidental" losses, in some instances, have sharply increased the financial obligations of some defendants and their insurers, compared to typical awards in earlier years. Court awards are sometimes higher domestically than under similar circumstances abroad because punitive damages are not granted by courts outside the United States, and because courts in some countries do not allow a jury award for pain and suffering.

Costly court awards have also affected the availability of foreign reinsurance. About 30 percent of the reinsurance held in the United States is purchased from abroad, and some of these foreign reinsurers have been significantly and adversely affected by the number and size of insurance claims paid in the United States in recent years compared to reinsurance sold in other countries.

One consequence of higher court awards for certain types of insurance coverage, such as for environmental restoration in particular, is that insurance and reinsurance for truckers carrying hazardous cargos were sharply curtailed, or withdrawn completely, during 1985.



Example of a double-bottom truck

Traditional Alternatives to Buying Insurance from an Insurance Company

In industries other than trucking, alternatives are available to a firm that cannot, or prefers not to buy insurance from an insurance company. These alternatives include the following:

1. Self insurance
2. Joining, or establishing, an insurance pool to share risk with other companies
3. Establishing a captive insurance company, or joining other owners of an already established captive insurance company. These captive insurance companies sometimes are domiciled outside the United States (typically in Barbados or the Dominican Republic) because of tax or regulation advantages.
4. Posting a bond.

The ICC currently does not allow such flexibility to truckers, but that situation could change as a result of deliberations currently underway at the ICC.

Some Remedies Suggested to Congressional Subcommittees

Witnesses at congressional hearings have suggested several actions that Congress could consider in an attempt to ameliorate the current insurance situation, including:

(1) starting Federal regulation of the insurance industry;

(2) increasing the number of safety inspectors;

(3) requiring that proof of insurance be carried on each driver or kept in the cab of each truck that is on the road;

(4) extending the notification period to the ICC from 30 days to 90 days for "insurance delinquencies", insurance cancellations, or non-renewal of insurance;

(5) automatic revocation of ICC operating authority when insurance coverage lapses;

(6) setting a statutory cap on jury awards and environmental restoration expenditures;

(7) conducting an inquiry on the reliance of the U.S. insurance industry on foreign reinsurance markets;

(8) defining liability more closely in statute, leaving less opportunity for interpretation by courts;

(9) limiting the size of punitive, pain and suffering, and damage awards;

(10) limiting the use of contingency fee compensation by attorneys for plaintiffs; and

(11) amending portions of the Motor Carrier Act of 1980 (P.L. 96-296, 94 Stat. 793) dealing with environmental restoration.

Conclusions

Conditions in the insurance industry might be improving as higher premiums replenish reserves and expand the capacity of insurance companies and shared risk pools to sell insurance and reinsurance. There does not seem to be a consensus on how quickly this improvement might occur, or the extent to which it could be offset by high court awards and the current interpretation of concepts such as "sudden and accidental."

Meanwhile, some trucking companies would be facing serious financial problems even if they had no insurance problems. The remedies that have been proposed to Congress would take time to enact. Subsequently, such changes would require time for a significant impact. In the interim, some efforts are being made to ameliorate the problem of insurance affordability and availability for truckers.

One example is the possibility that the ICC might decide to allow some of the alternatives to traditional insurance listed above.

Another possibility is that groups of trucking firms and trucking associations could begin providing insurance pools for those who cannot buy insurance in the open market.

Stephen J Thompson is a specialist in transportation, Economics Division.

DYNAMICS OF CHILD POVERTY

continued from page 19

control. The main exception to this is for older children who can work and contribute to family income.

But what types of events are associated with the beginnings or ends of periods of poverty?

What events have the most severe consequences when they occur, and what positive or negative events happen most frequently?

Do different factors help explain black and white poverty?

Some preliminary answers to these questions have been advanced from research on the Panel Study of Income Dynamics.

A significant portion of childhood spells of poverty begin with birth. Estimates are that from a fifth to a quarter of poor children are born into poverty.

Although significant, birth into poverty did not account for 75 to 80 percent of children's transitions into poverty. Later events must have instigated these poverty periods. In general, events after birth did not play as important a role in the poverty of black children as white children. Duncan and Rogers (1985) attribute 85 percent of white childhood poverty, but only 55 percent of black childhood poverty, to events subsequent to birth. Thus, 15 percent of poor white children, but 45 percent of poor black children, commence life in poverty.

Evidence from the PSID indicates that changes in employment (number of hours worked or earnings) have the most significant effect on the poverty experiences of children. Over 50 percent of all of the spells of poverty experienced by children in the PSID sample began with a change in earnings of a family member. A drop in earnings was more significant for male-present families than for female-headed families; for the latter, becoming a female-headed family resulted in the most poverty spells.

The effect of an event on childhood poverty depends both on the frequency with which it occurs and the severity when it does occur. Those events that have the most severe consequences include transitions from two-to one-parent families, changes in employment status and hours worked of female heads of household, and disability of a male head of household. They happen too infrequently, however, to be the prime explanatory events for childhood poverty. A reduction in hours worked by male heads of households or other family members, which have a less severe impact than other unfavorable events such as disability when they occur, but occur much more frequently, accounted for more than 50 percent of the poverty experiences of white children and more than 40 percent of the poverty experiences of black children.[4]

[1] *The information presented in this article draws heavily on the PSID research. The primary sources of information for this article were: Bane, Mary Jo. Household Composition and Poverty. IRP Conference Paper presented in Williamsburg, VA. December 6-8, 1984. University of Wisconsin-Madison. Duncan, Greg J., et al. Years of Poverty, Years of Plenty: The Changing Fortunes of American Workers and Families. Ann Arbor: Institute for Social Research, University of Michigan. 1984. Duncan, Greg J. and Rogers, Willard. The prevalence of childhood poverty. Unpublished paper. Ann Arbor, MI: Survey Research Center, University of Michigan. 1985. Duncan, Greg J. Black Families and Black Poverty. Unpublished paper. Ann Arbor, MI: Survey Research Center, University of Michigan. Elwood, David T. and Bane, Jary Jo. Slipping Into and Out of Poverty: The Dynamics of Spells. NBER Working Paper #1199. Harvard University. 1983. Hill, Martha S. and Ponza, M. Poverty and Welfare Dependence Across Generations. Economic Outlook USA. Summer, 1983, vol. 10, no. 3. Lillia, Mark. Why the "Income Distribution" is so Misleading. The Public Interest, #73: National Affairs Inc. New York, N.Y. Fall 1984.*

[2] *That one-third of all individuals are poor at some point in their childhood is particularly dramatic when one considers that the overall poverty rate as measured by the PSID is considerably lower (up to 30 percent) than the official poverty rate determined by the Census Bureau. The official proportion of children that would have been poor at some point during the PSID interview period as measured by the CPS is not known, but presumably it would have been significantly above one-third.*

[3] *Duncan, 1985, op. cit., p. 2.*

[4] *Duncan and Rogers, 1985, op. cit. Note that these figures do not control for the duration of poverty. It is probable that events such as transitions to female headed families result in longer periods of poverty than labor supply changes.*

Kenneth Cahill is a specialist in social legislation, Education and Public Welfare Division

See also Children in Poverty, WMCP 99-8, prepared by CRS and CBO May 22, 1985.

DONNA U VOGT

JAPANESE IMPORT BARRIERS TO U.S. AGRICULTURAL EXPORTS

Although Japan is the largest country market for U.S. agricultural exports, purchasing approximately $5.3 billion in 1985, U.S. officials want to increase this trade by expanding access to Japanese markets. Seemingly, the major obstacles to increasing U.S. agricultural exports to Japan are Japanese import restrictions imposed to protect domestic agricultural support programs from foreign competition and to enhance Japanese farm income. Through bilateral and multilateral discussions and negotiations, U.S. officials have successfully pressured Japan to lower or eliminate some specific barriers, other barriers remain. This article discusses why Japan is so reticent about opening its markets, what barriers continue to pose problems for U.S. agricultural exports, and what options Congress has considered to maintain pressure on Japan for greater market access.

Harvesting gladiolas as an alternative crop to rice

U.S. AND JAPANESE AGRICULTURAL TRADE

Japan imports 20 times more in value of U.S. agricultural products than it exports to the United States. In 1984, Japan purchased $6.75 billion worth of agricultural commodities from the U.S. and sold us $216 million. The following table shows the strength of the U.S. share in twelve commodity categories with corn, soybeans, and citrus fruit topping the list at over 90% of the market share.

From the U.S. perspective, the agricultural trade balance is a positive part of the total U.S.-Japanese trade picture which showed a record deficit in 1984 of $37 billion. Yet most U.S. agricultural exporters think that Japan could import even a greater amount of U.S. products. These views and the continuing overall trade deficit build pressure for Japanese liberalization of import restrictions.

Why Does Japan Resist Opening Its Markets?

Japan, with limited agricultural resources, depends heavily on agricultural imports. Yet, food shortages and hunger during and after World War II led Japanese policymakers to strive for a high degree of self-sufficiency in basic foodstuffs by encouraging domestic production of staple foods, particularly rice. Self-sufficiency, however, declined from 90 percent in 1960 to 72 percent in 1980, according to the Japanese Ministry of Agriculture, Forestry, and Fisheries (MAFF). Japanese policy aims to maintain this current level of self-sufficiency through strong domestic support programs and protective import barriers.

Even when these domestic farm programs encourage inefficient resource use, and raise consumer prices, in some cases to levels higher than world prices, they enjoy strong support among both rural and urban Japanese. Urban residents with memories of food shortages as well as close family ties to rural areas are among the major supporters of the Japanese food self-sufficiency policies. Rural residents benefit from farm income that is maintained in parity with urban income through the domestic farm programs. This rural support translates into strong political support. The strength of the ruling political party, the Liberal Democratic Party (LDP), comes from rural districts whose boundaries were defined after World War II. There have been few changes in voting districts even with urban migration, leaving the rural areas with a disproportionate amount of political power in the country's parliament. Consequently, changing agricultural policies in Japan is a difficult political task for any Japanese governing party.

What Are The Major Barriers Facing U.S. Agricultural Exports?

The United States is interested in liberalizing the Japanese import regime. U.S. officials perceive Japan as operating behind a wall of protectionist barriers against all agricultural imports that are considered unnecessary or that compete with domestic products. U.S. officials believe these barriers are inconsistent with Japan's obligations under the international trading rules of the General Agreement on Tariffs and Trade (GATT).

These barriers are particularly offensive to U.S. exporters given the fairly liberal U.S. import policy not only regarding agricultural products, but manufactured goods as well. Over the past few years, there have

TABLE 1. *Japan's Imports of Principal Agricultural Commodities and the U.S. Share, 1983 and 1984.*

Commodity	Volume		U.S. share	
	1983	1984	1983	1984
	1,000 tons		Percent	
Corn	14,701	14,170	91	97
Sorghum	2,957	4,478	22	42
Barley	1,477	1,567	19	26
Soybeans	4,995	4,515	93	93
Raw Cotton	666	708	47	53
Wheat	5,816	5,978	58	57
Sugar	1,803	1,836	—	—
Coffee beans	204	223	—	—
Pork	166	196	21	12
Beef	137	146	27	29
Poultry meat	104	107	64	50
Whole cattle hides	206	219	82	86
Tobacco	80	75	65	61
Citrus Fruit	386	370	97	97
Bananas	576	682	—	—
	million dollars			
Total agricultural imports	16,765	18,206	41	42

Source: Japan's Ministry of Finance. Japan Exports and Imports: Commodity by Country, 1983 and 1984, December Issues. As found in USDA. ERS. East Asia: Outlook and Situation Report. RS-85-2, May 1985.

Harvesting rice in Japan

been a number of multilateral and bilateral discussions between the U.S. and Japan on the issue of trade liberalization. The U.S. Government's objective in these negotiations has been to gain increased access to Japanese markets through a reduction in both tariff and nontariff barriers.

Tariffs. Tariffs, a tax or duty levied on a commodity when it crosses a national boundary, keep prices of imports high and less competitive with prices of domestically produced commodities. Japanese tariffs on bulk agricultural commodities are fairly low, but range up to 40 percent on such imported items as oranges, meats, jams, and jellies. Over time, the U.S. Government has negotiated with the Japanese, in both bilateral and multilateral contexts, for the reduction of many of these tariffs.

For example, the Japanese bound the tariff on soybeans at zero duty during the Tokyo Round of the GATT Multilateral Trade Negotiations. Since this Round ended in 1979, the Japanese Government has reduced tariffs in seven "packages". The latest "package" of reductions, announced June 25, 1985, will take effect on April 1, 1986, with cuts in tariffs on bananas, boneless chicken, and palm oil. Only 5 percent of total U.S. agriculture exports in 1984 will be affected by this tariff reduction "package".

Nontariff Barriers. U.S. officials are also concentrating in bilateral trade negotiations on reducing what are considered Japan's top nontariff barriers to increased agricultural trade: quotas, licensing arrangements, standards, and state trading rules.

U.S. officials claim that Japanese restrictions have been difficult to identify at times and have been administered in an arbitrary manner. Of particular interest to the United States have been the quotas on beef and citrus. In the exchange of "letters of understanding" on August 14, 1985, Japan agreed to increase its imports of high-quality (corn-fed) beef by 6,900 metric tons (MT) each year to a maximum of 58,400 MT in JFY (Japanese Fiscal Year) 1987 (April 1, 1987 to March 31, 1988). Japanese officials also agreed to increase the hotel beef import quota to 4,000 MT per year from 3,000 MT; to increase the fresh orange quota by 11,000 MT per year from 93,000 MT to 126,000 MT in JFY 1987; and to increase orange juice quota by 500 MT from 7,000 MT to 8,500 MT in JFY 1987. The Japanese also agreed to eliminate import quotas on grapefruit juice as of April 1, 1986.

Quotas on beef resulted in increased beef prices to Japanese consumers and diminished demand. In fact, tariffs and surcharges on imported beef, restrictions on imported cattle (limited quarantine facilities and a tariff quota on feeder calves), in combination with the state trading organization's (Livestock Industry Promotion Corporation) practice of selling imported beef at a price equal to the higher domestic price of beef, make the price of U.S. beef to Japanese consumers significantly higher than the price at which it enters Japan. Such Japanese Government support of the domestic livestock industry has meant that negotiations on beef import quotas have been politically charged.

Similarly, citrus and citrus product quota negotiations have also been politically sensitive because the Japanese Government carefully protects its domestic industry. Japan is the third largest citrus producer in the world, following the United States and Brazil, producing 90 percent of the domestically available citrus. The production of mikan oranges, a tangerine-like fruit, was encouraged in the early 1960s as an incentive to

Selecting the best of the apple crop

diversify farmers out of rice and to find high-valued products that can be raised on hillsides. As part of the domestic support policies for the citrus industry, the Japanese Government carefully limits competing imports.

Citrus imports are restricted by limiting the number of Japanese firms that can obtain import licenses for the quotas—about 95 Japanese trading firms. However, since eligibility for quotas is based on a "record of imports," the top ten companies are estimated to import close to 50 percent of the total and have a "locked-in" advantage of an historical import record. Juice quotas are allocated to only four associations of domestic juice manufacturers who in turn designate Japanese trading companies for the actual transactions.

Besides citrus quotas, the Japanese domestic citrus industry is supported through a series of standards that act as nontariff barriers to imports. A standard is a technical specification that sets the acceptable characteristics of a product such as the levels of quality, performance, safety, or dimensions. It can also include labeling and packaging or blending requirements.

Japanese juice manufacturers must follow a blending or "domestic content" requirement. Japanese law requires a certain portion of imported orange juice to be blended with domestically produced tangerine juice. One half of the imported amount can be blended on a 50/50 bases while the other half can be blended on a more lenient basis 90 percent imported/10 percent domestically produced.

The Japanese not only protect their beef and citrus industries, but also protect their rice, wheat, and barley producers by giving the state-run Food Agency control over the domestic production of rice, wheat, and barley, and the importation of wheat and barley. The Food Agency protects the domestic producer of these products by insulating domestic producers from both higher and lower world prices. In fact, through the maintenance of high support prices, the Food Agency maintains rural incomes of rice farmers on a par with urban incomes. Such high supports encourage production, and consequently, rice production almost always exceeds consumption. The Food Agency also controls imports of wheat and barley through price mechanisms. Only 11 Japanese trading companies are assigned "port-of-arrival" quantities of these imports after winning a weekly tender.

These companies follow a similar pattern. All imports are sold to the Food Agency which resells wheat and barley imports to processing plants at price levels much higher than world market prices. These higher prices, particularly on wheat, earn revenues that defray some cost of the expensive rice support program. For example in January 1985, the Food Agency sold to millers an amount of wheat at $323.89 per metric ton, while at the same time in U.S. ports the same kind of wheat cost $149 per metric ton. The Food Agency earned a 217 percent profit on each ton of wheat.

Congressional Reactions

Growth in U.S. agricultural exports to Japan will depend not only on better U.S. access to Japan's restricted markets, but also on growth in the Japanese economy and the maintenance of U.S. competitiveness vis-a-vis other exporting nations. The process of lowering trade barriers through persuasion has been slow, since little can be accomplished until the Japanese view liberalizing agricultural trade barriers to be in their own self-interest. This liberalizing process could be done by either persuasion or retaliation. Congress is currently considering several different actions that might persuade the Japanese to reduce import barriers to U.S. agricultural exports.

Congress has supported the Administration's efforts to gain market access for U.S. agricultural exports. Last spring the House and Senate passed similar non-binding resolutions in support of consultations and bilateral negotiations. The Senate version, called "The Japanese Unfair Trade Practices Bill," requires the President to take all needed actions to eliminate Japanese trade barriers to all American products, including agricultural products, or to retaliate against imports from Japan. These measures illustrate the support in Congress for bringing pressure on Japan to liberalize its trade import barriers.

Legislation has also been introduced that would provide a more forceful alternative to the non-binding resolutions passed last Spring. H.R. 2156 would legislate limits on U.S. imports of Japanese automobiles unless the Japanese remove all quotas on U.S. beef, fruits, and vegetables. S. 774 would authorize the President, if reduction of the trade deficit does not result from increased access of U.S. goods and services to Japanese markets, to take other specified actions that would increase import restrictions and nontariff barriers on Japanese goods and services into the United States. Such a curtailment of Japanese goods would not be popular with American consumers, but such actions or threat of such actions may provide the necessary negotiating leverage.

For additional information see CRS Report No. 85-153 ENR U.S. and Japanese Agricultural Trade: Import Barriers, by Donna U. Vogt.

Donna Vogt is an analyst in agricultural policy, Environment and National Resources Policy Division.

Seminars

Inquiries 287-7904

Weekly on Thursday	INTRODUCTORY BRIEFING ON CRS RESOURCES, SERVICES, AND FACILITIES FOR MEMBER AND COMMITTEE STAFF. Room 209, James Madison Building. 10:00 to 11:30 a.m. Open to permanent Member and Committee staff only; not open to interns. Coordinator, Pat Clark, 287-6464.
Weekly	SCORPIO. Introductory training classes available at CRS. Individual refresher or advanced session available at either CRS or your congressional office. Open to Member and Committee staff. Call 287-6447 for an appointment.
February 13	THE 1985 FARM BILL AND GRAMM-RUDMAN-HOLLINGS: WHAT'S IN STORE FOR U.S. AGRICULTURE? A half-day seminar with leading farm policy analysts and economists who will to explore the effects of the 1985 Farm Bill and Gramm-Rudman-Hollings on U.S. agriculture and world markets. Sponsored by CRS and Resources for the Future. 8:30 a.m. to 12:30 p.m., House Agriculture Committee hearing room, 1302 Longworth. Coordinator, Jill Ziegler.
March 4-6	DISTRICT/STATE STAFF INSTITUTE. Designed to acquaint District and State staff with CRS services, and to improve skills in casework and in working with government agencies. Supported by the United States Senate and the House of Representatives. Held in the James Madison Building, Library of Congress. Coordinator, Chad Wilson.

Modern Johannesburg, South Africa - See March REVIEW for article on U.S. Policy for South Africa

THE LIBRARY OF CONGRESS
CONGRESSIONAL RESEARCH SERVICE
WASHINGTON, D. C. 20540

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

7/3

NEWARK PUBLIC LIBRARY

APR 8 1986

U. S. GOVT. PUBS.
DEPOSITORY 378

99th Congress

CONGRESSIONAL RESEARCH SERVICE REVIEW

LC 14.19:

March 1986

WHAT'S HAPPENING TO THE MIDDLE CLASS AND INCOME INEQUALITY IN AMERICA?

INSTITUTIONAL INVESTORS: A MAJOR FORCE IN TODAY'S FINANCIAL MARKETS

AN EXAMINATION OF HISTORICAL TRENDS AND NATIONAL FACTORS AFFECTING PARTY GAINS AND LOSSES IN THE MIDTERM CONTESTS

THE 27TH CONGRESS OF THE COMMUNIST PARTY OF THE SOVIET UNION

SOUTHERN AFRICA AND THE UNITED STATES: U.S. REGIONAL POLICY AT A CROSSROADS

LEGAL ANALYSIS OF THE RIGHT TO DIE

V. 7 No.3

RICHARD S. BELOUS
LINDA H. LEGRANDE
BRIAN W. CASHELL

WHAT'S HAPPENING TO THE MIDDLE CLASS AND INCOME INEQUALITY IN AMERICA?

The French social critic, Alexis de Tocqueville, wrote in the 1800s that "general equality," or the "ideal" of equality, was the central characteristic that molded American society.[1] Using the language of modern social scientists, de Tocqueville did not find a two tier society in the United States (i.e., a very small upper class, a very large lower class, and almost no middle class). Recently, however, some individuals and groups have expressed serious concerns about an eroding American middle class. If the middle class is shrinking, some analysts believe that this could hurt American society.

THE RECENT DEBATE

In most of the studies on this issue examined by CRS some shrinkage was found in recent years in the proportion of money income, disposable income, or earnings going to individuals, households, or families who compose the middle class (however middle class is defined). Conceding at least modest shrinkage of the middle class, analysts have gone on to posit a variety of reasons for its occurrence. They also have debated whether these reasons are short-run and reversible, or presage a continuing erosion of the middle class in future years.

Most of the recent discussion about the erosion of the middle class has been prompted by the economic climate of the early 1980s. The back-to-back recessions of 1980 and 1981-1982 produced the highest unemployment rates in the postwar period. Increased competition in the U.S. marketplace from foreign producers exacerbated domestic firms' cyclical difficulties. At the same time, the increased use of new technologies further dampened the demand for labor. Workers in the goods-producing sector (e.g., manufacturing) were laid off in large numbers, while workers in the less cyclically sensitive service-producing sector continued to be hired. Although the service-producing sector has been accounting for a steadily increasing share of total employment over the years, the different behavior of the two sectors was underscored by the economy's poor performance.

Along with the shift from a manufacturing to a service-based economy has come the perception that the occupational structure is changing as well. It has been asserted that relatively well-paid factory jobs are being permanently eliminated and that the opportunity for upward mobility is being curtailed. The United States is characterized as deindustrializing, with the growing number of relatively low-paid retail, fast food, and custodial jobs unable to provide as many workers with a middle-class standard of living. Moreover, it has been argued that within the high technology manufacturing industries and the service-producing sector a larger share of jobs are either at the top or the bottom of the earnings distribution, while in the smokestack manufacturing industries (e.g., autos, steel, machine tools) a larger share of the jobs are in the middle of the earnings range. Consequently, a two-tier or bipolar distribution is purported to be replacing the more equal, pre-1980 income distribution.[2]

Some analysts do not agree with this scenario. For example, neither Robert Lawrence of the Brookings Institution nor Neal Rosenthal of the U.S. Bureau of Labor Statistics (BLS) find the decrease in manufacturing employment, rising share of high tech and service employment, or changing occupational structure to be adequate explanations of either the shrinking middle class or bipolarization theses. While acknowledging that the proportion of workers employed full-time who had middle-class earnings fell from 50 percent in 1969 to 46 percent in 1983, Lawrence concludes that little of the decline is related to different employment growth rates between the goods- and service-producing sectors.[3] He finds that if middle-class jobs had increased at the same rate between 1969 and 1983 as total full-time employment, there would

The Congressional Research Service Review
Library of Congress
Washington, D.C. 20540

Joseph E. Ross, *Acting Director*,
Congressional Research Service

A.A. Hoehling—*Editor*, CRS Review

The CRS REVIEW is a professional journal for the United States Congress and its legislative staff. It is published ten times a year to provide the congressional community analytical articles on substantive public policy issues. The Congressional Research Service (CRS) serves Congress in its legislative and oversight responsibilities.

CRS is a separate department of the Library of Congress which analyzes and evaluates legislative proposals pending before Congress or recommended to it by the President and executive agencies.

The CRS Review is distributed to Members of Congress, their staffs, congressional committees, and other offices of the legislative branch. It is also available through GPO stores.

NO. ISSN 0193-8029

have been 3.3 million more middle-class jobs in 1983. Of this shortfall, Lawrence attributes just 271,000 jobs to the relatively greater employment gains in the service-producing sector.

In order for the more rapid growth in high tech and service industries to cause a bipolarization of earnings, low- and high-paying occupations must be more prevalent in these industries than across all industries. Rosenthal, of the BLS, concludes that in 1982 high tech industries had more high-paying professional and managerial jobs and fewer low-paying clerical and service jobs than all industries.[4] Moreover, nearly all members of the largest group of high tech employees—production workers—had above average earnings compared to production workers in all manufacturing industries and production/nonsupervisory workers in all private nonfarm industries. In general, Rosenthal notes that changes in the occupational structure over time have not resulted in an increased proportion of workers in the bottom and top thirds of the earnings range.[5]

Some researchers have suggested that demographic shifts provide an alternative, if not superior, explanation to employment shifts for the recent contraction of the middle class.[6] They have asserted that the influx of young workers born during the baby boom depressed wage growth due to the greatly expanded supply of labor, which heightened competition for jobs. As a consequence, these young adults increased the number of persons in the low end of the earnings distribution. Moreover, the tendency of baby boomers to delay marriage has created more single-person households. The greater number of elderly women living alone also added to the number of such households. Given the relatively low earnings of baby boomers and the small, fixed incomes of elderly women, this kind of household tends to fall into the lower income class. So too do single-parent families, whose numbers swelled in recent years due to the rising rates of divorce and unwed mothers.

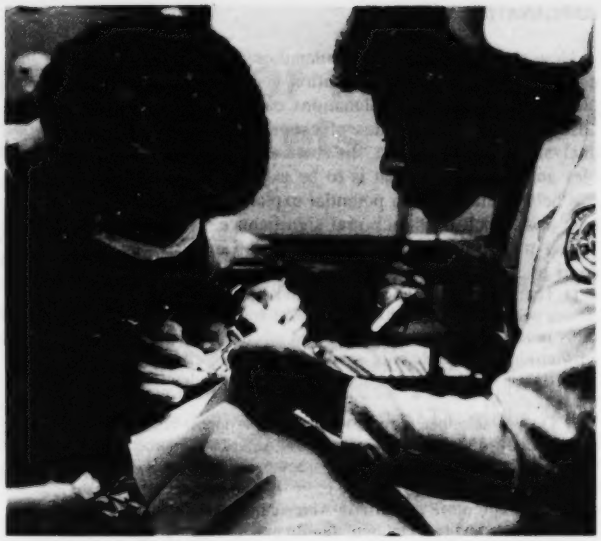
Less frequently, changes in public policies over the last several years have been offered as a partial explanation for the recent increase in income inequality. The term public policies as used here refers to the tax and spending activities of Federal, State, and local governments. In a study by Levy and Michel, a measure of disposable income is estimated to assess how various tax and spending changes, as well as inflation and recession, affect the standard of living among families. Between 1979 and 1984, the analysts find that income inequality grew because of the differential impact of public policies on families across income levels.[7]

STATISTICAL EVIDENCE

Many of the assertions made by various analysts presented above appear to be more in the nature of conjecture than the products of statistical hypothesis testing, as there was limited presentation of such testing. CRS undertook formal statistical hypothesis testing of the various claims.

Analysis of the assertion that the middle class is shrinking, of course, requires a precise definition of the middle class. But the concept of middle class is so vague that any statistical measure is, by necessity, arbitrarily restrictive. Thus, three measures were used by CRS.

The first measure of the middle class' position is the share of money income earned by the middle 20 percent (i.e., the middle fifth) of families in the income distribution. (See table 1.) If this share rises, then those families in the middle fifth of the income distribution are better off relative to other families in the distribution. In 1947, the middle fifth earned 17.0 percent of total money income. By 1953, the middle fifth's share of income rose to 18.0 percent. In 1961, the share was as low as 17.5 percent, but then it rose again to 17.9 percent in 1967. After 1967, the middle fifth's share declined gradually, and in 1984, it was 17.0 percent (the same level as in 1947).



Is the American middle class shrinking; creating a bipolarized economy? *Dept. of Housing and Urban Development*

A second measure of the middle class' position simply adds the shares of income earned by the second, third and fourth fifths in the distribution. This accounts for the share of money income earned by the middle 60 percent of the income distribution. The middle 60 percent received 52.0 percent of total money income in 1947. In general, the middle 60 percent's share of money income showed some small gains in the 1947 to 1967 period. In 1967, for example, the middle 60 percent received 54.2 percent of total money income. However, the middle 60 percent's share of money income has experienced some small declines in the 1967 to 1984 period. In 1984, for example, the middle 60 percent received 52.4 percent of total money income.

A third statistic, which measures the degree of equality in the distribution of income, is the Gini coefficient, also known as the index of income concentration. The Gini coefficient has a possible value ranging from zero to one. The closer to one, the greater is the inequality in the distribution of income. (This means that if the Gini coefficient were to move from, say, 0.365 in 1980 to 0.383 in 1984, the rich would be relatively richer and the poor would be relatively poorer in 1984 compared to 1980). A Gini coefficient of zero would indicate a perfectly equal distribution of income which, in the case of family income, could mean that all families would have the same income. The Gini coefficient does not show the relative size of the middle class, but it does indicate the shape of general income inequality in an economy.

As indicated in table 1, the Gini coefficient shows that in 1984 the degree of inequality in the distribution of family income was greater than it was in 1947. During that time there was a period of increasing equality from 1947 up to 1967. Since 1967, the Gini coefficient indicates that family income distribution has become more unequal. Also, most of the changes in the Gini coefficient appear to be due to movements at the low and high ends of the income distribution.

The various measures presented above all indicate a general pattern concerning income distribution. There seems to have been a trend toward greater equality in the distribution of family income from 1947 up to about 1967 (i.e., the poor were increasing their relative share of the total income and the rich were decreasing theirs). After 1967, the distribution of income appears to have become increasingly unequal.

EXPLANATIONS

How well do the popular explanations for recent increases of inequality in the income distribution and the erosion of the middle class hold up? These explanations can be tested using regression analysis, a common means of examining hypotheses. Regression analysis provides the best "fit" between a set of explanatory variables and the variable that is to be explained. Regression statistics can help identify which potential explanatory variables are significant and which ones lack real significance.[8]

The main findings of CRS' statistical analysis can be summarized as follows:

1) The relative decline in manufacturing employment and increase in service sector employment do *not* appear to be the primary factor behind shifts in the middle class and increased income inequality in the U.S. The relationship between shifts of employment between industries and the middle class are highly complex and do *not* seem to follow the simple theories detailed above.

2) The variable that appears to have the strongest erosive effect on the middle class and income inequality is the American divorce rate. As the divorce rate increases, all other factors being equal, there is a significant decline in the position of the middle class. Higher divorce rates are an indication of a much more pluralistic American family structure. While the "husband-wife and two children" family may have been typical in the past, this is no longer the case. Female-headed families, unmarried couples and single individuals represent a growing number of U.S. households. There is also a growing diversity in the number of wage earners contained in families. This pluralism among families appears to have pushed many individuals outside the boundaries of the middle class.

3) Under certain definitions of the middle class, its relative position tends to erode as the unemployment rate increases.

4) The relative position of the middle class also seems to be connected to productivity changes. In periods of strong productivity improvements, the relative standing of the middle class shows statistical improvement. However, in periods of poor—or no—productivity improvements, the relative standing of the middle class shows statistical decline.

DISTRIBUTIONAL EFFECTS

When considering these results, it should be remembered that beauty is not the only thing that lies in the eyes of the beholder. Some policymakers could study these estimates and be dismayed by any erosion of the middle class' position and increased income inequality. However, other policymakers could view the magnitude of this erosion as small and reversible under various economic developments and social policies.

The "middle class erosion" issue may or may not stimulate consideration of new Federal programs; however it could well heighten the interest of policymakers in the distributional effects of already existing government policies.

Richard S. Belous is an analyst in labor economics, Linda H. LeGrande is a specialist in labor economics, and Brian W. Cashell is an analyst in quantitative economics, all with the Economics Division.

NOTE: For an elaboration on the ideas presented in this article, see U.S. Library of Congress. Congressional Research Service. Middle Class Erosion and Growing Income Inequality: Fact or Fiction? Report No. 85-203 E, by Richard S. Belous, Linda H. LeGrande, and Brian W. Cashell. Washington, November 1985. 50 p.

[1]de Tocqueville, Alexis. Democracy in America. New York, Vintage Books, 1954. v. I, p. 3-5; v. II, p. 287-288. Democracy in America was first published in America in 1840.

[2]This scenario is described in the following sources: Industrial Union Department. Deindustrialization and the Two Tier Society. AFL-CIO, Washington, 1984; Kuttner, Bob. The Declining Middle. The Atlantic Monthly, July 1983, p. 60-72; Steinberg, Bruce. The Mass Market is Splitting Apart. Fortune, November 1983, p. 76-82; Thurow, Lester. The Disappearance of the Middle Class. New York Times, February 5, 1984, p. F3. Critiques of this scenario appear in the following sources: Medoff, James and Paul Strassman. About the "Two-Tier' Work Force and Growth of Low-Pay Jobs. Computer and Business Equipment Manufacturers Association, Washington, 1985; Fallows, James. America's Changing Economic Landscape. The Atlantic Monthly, March 1985, p. 47-68; The Myth of the Vanishing Middle Class. Business Week, July 9, 1984, p. 83-86; and, Samuelson, Robert. Middle Class Media Myth. The National Journal, December 1983, p. 2673-2678.

[3]Lawrence, Robert. Sectoral Shifts and the Size of the Middle Class. The Brookings Review, Fall 1984. p. 4-7. In the article, the middle class is defined as those workers who fell into a range surrounding the median weekly full-time earnings in 1969 and 1983.

[4]Rosenthal, Neal. The Shrinking Middle Class: Myth or Reality? Monthly Labor Review. p. 8. In the article, the middle class is defined as those workers who fell into the middle third of occupations. The middle third was derived by arraying occupations by earnings and then dividing the occupations equally into three groups.

[5]Ibid, p. 4.

[6]This scenario is described in the following sources: Blackburn, McKinley and David Bloom. What is Happening to the Middle Class? American Demographics, January 1985. p. 19-25; Lawrence, Sectoral Shifts; Levitan, Sar and Peter Carlson. The Eroding Middle Class: A New Idea? Washington, Center for Social Policy Studies, George Washington University, June 1984; and, Zonana, Victor. Is the U.S. Middle Class Shrinking Alarmingly? Economists Are Split. Wall Street Journal, June 20, 1984. p. 1, 27.

[7]Levy, Frank and Richard Michel. The Way We'll Be in 1984: Recent Changes in the Level and Distribution of Disposable Income. Washington, The Urban Institute, November 1983. p. 4, 33-43. In the report, disposable income is defined as money income plus Food Stamp Benefits minus taxes.

[8]For more details on regression analysis see Maddala, G.S. Econometrics. New York, McGraw Hill, 1977. p. 74-131.

TABLE 1. The Distribution of Family Income In The United States (percent of total money income)

Year	*Lowest Fifth*	*Second Fifth*	*Middle Fifth*	*Fourth Fifth*	*Top Fifth*	*Middle 60 Percent*	*Gini Coefficient*[a]
1947	5.0%	11.9%	17.0%	23.1%	43.0%	52.0%	0.376
1957	5.1	12.7	18.1	23.8	40.4	54.6	0.351
1967	5.5	12.4	17.9	23.9	40.4	54.2	0.348
1977	5.2	11.6	17.5	24.2	41.5	53.3	0.364
1980	5.1	11.6	17.5	24.3	41.6	53.4	0.365
1981	5.0	11.3	17.4	24.4	41.9	53.1	0.370
1982	4.7	11.2	17.1	24.3	42.7	52.6	0.381
1983	4.7	11.1	17.1	24.4	42.7	52.6	0.381
1984	4.7	11.0	17.0	24.4	42.9	52.4	0.383

[a]The Gini Coefficient measures the degree of income inequality in an economy. The Gini Coefficient can range from 0 to 1. A Gini Coefficient of 0 would mean that a society had "perfect" equality (i.e., all families would have the same income). A Gini Coefficient of 1 would mean that a society had "perfect" inequality (i.e., only one family would have all of the income and the rest of the families would not have any income). As the Gini Coefficient increases, from say 0.381 in 1982 to 0.383 in 1984, this means that the degree of relative income inequality in the U.S. has increased.

Source: U.S. Department of Commerce, Bureau of the Census.

JULIUS W. ALLEN

Institutional Investors: A Major Force in Today's Financial Markets

Institutional investors have come to take over an increasingly large and important place in the marketplace for corporate securities, both bonds and stocks. While the rate of growth of institutional investment in the next decade or so may not fully match the rise during the past twenty years, there is little doubt that institutional investors will continue to expand and to increase the influence that they currently exert in the American economy.

Even though no single definition of an institutional investor, as contrasted with an individual investor, is universally accepted, two basic characteristics of institutional investors are widely agreed upon. First, institutional investors are organizations that obtain funds from individuals in order to invest such funds in their behalf; and second, they are large enough to obtain preferential commissions and other economic advantages related to size. The major institutional investors in the United States are pension funds, investment companies (including mutual funds), insurance companies, personal trust funds, foundations and non-profit endowments.

FAST GROWTH SINCE 1960

While statistics on the growth of these various kinds of institutional investors are of uneven reliability (e.g., reliable data on bank-administered personal trust funds are not available), there is a consensus that the-value of institutional stockholdings has risen substantially since 1955 and that relatively the growth in stock market trading by institutional investors has been even greater. Table 1 shows the market value of institutional investment holdings in 1960, 1970 and 1980, as estimated by the Securities and Exchange Commission. From this table, it can be seen that stockholdings have grown substantially for virtually all kinds of institutional investors and that by far the most significant growth during this period has been that of pension funds. This pension fund growth was accelerated by passage of the Employee Retirement Income Security Act of 1974 (ERISA). By 1983, private pension fund assets had passed $1 trillion and public pension fund assets had reached an additional $285 billion.

While fully comparable data on the amounts of trading by institutional investors are not available, there is substantial evidence that the relative size of institutional, as against individual, stock market trading, is even greater than the size of their holdings. One measure of this trading volume, as shown in table 2, is the amounts of trading on the New York Stock Exchange (NYSE) of 900 shares or less, the level of trading characteristic of individual investors, and trading of 10,000 shares or more, which is done predominantly by institutional investors. As can be seen from table 2, reported trades of 900 shares or less dropped from 42 percent of all trades on the New York Stock Exchange in 1975 to 11 percent in the first 10 months of 1985. During the same time period, reported trades of 10,000 shares or more rose from 17 percent of total trades in 1975 to 53 percent in the first 10 months of 1985.

While the extraordinary growth of institutional investments during the past two decades is well documented, there is less certainty on what this increase has meant to trading and the American economy at large. Discussion on the impact of institutional investors has focussed to a considerable extent on the following four areas, with differing degrees of agreement. These four are: (1) the impact of institutional investors on commission rates on the Nation's stock exchanges; (2) their impact on stock market performance; (3) the relative profitability of institutional investors' performance on the Nation's stock markets; and (4) the increasing role of institutional investors in corporate governance.

IMPACT ON COMMISSION RATES

The evidence seems to be clearest on the impact of institutional investors on stock exchange commission rates. The abandonment of fixed commission rates is a result in large measure of trading tactics of institutional investors. Increasingly, particularly in the 1960s, institutional investors began to find ways to get around the New York Stock Exchange's refusal to grant discounts for trading large blocks of stock, even though the cost of executing large block transactions was proportionately much less than for small transactions. They began utilizing regional exchanges and over-the-counter dealers in New York Stock Exchange-listed securities, often referred to as the third market. As a result, the New York Stock Exchange in 1968 changed its rigid fixed rate policy and allowed discounts averaging 7 percent on commission orders exceeding 1,000 shares and authorized extra service charges on smaller orders. By 1975, on order of the Securities and Exchange Commission, all fixed rate restrictions by exchanges were abandoned and were replaced by freely negotiable ones. As a result, there was an immediate reduction of about 25 percent in average commission rates, with greater reductions for large institutional transactions.

IMPACT ON STOCK PRICE VOLATILITY

The evidence that institutional investors have been a major factor in the increase in stock price volatility in recent years is much more problematical. It has been argued by some observers that the routine trading of large blocks of stock by institutional investors, some of which is likely to be speculative in nature, cannot help but jeopardize price stability in the markets. However, most empirical studies of stock market price movements in the last two decades do not find reliable evidence to support this contention. It is acknowledged that it may be possible for an institutional investor at times to trade in a particular security in a manner that adversely affects stock price stability. However, there was general consensus that institutional trading overall has not injured price stability in the securities markets and that increase in stock price volatility can readily be explained by other factors, such as changes in interest rates.

PROFITABILITY OF INSTITUTIONAL INVESTMENTS

Institutional investors are often criticized for their relatively lackluster performance in the stock market. For example, in 1984, only 26 percent of professional managers in the institutional money

management industry were able to outperform the compound annualized return of stocks in the Standard and Poor's 500 index. Others argue that it is unrealistic to expect exceptional gains from institutional fund managers. They claim that the efficiency of the market and the quick availability of information and competition of sophisticated investors keep stock prices pretty much where they should be. Possible gains are often offset by stock market commissions and fees paid to managers. Further, significantly to outperform the market would usually require the taking of risks beyond that which prudent management of funds would permit.

ROLE IN CORPORATE GOVERNANCE

The past two decades have seen the beginning of a significant shift in the role of institutional investors in the governance of corporations in which they hold stock and where they have the right as owners to vote on matters presented to stockholders at annual meetings and to express their views to management. Until the 1970s, it was rare for institutional investors to express a negative judgment on any aspect of a corporation's policy or performance by any means except to sell their holdings of that corporation's stock. They were thus following what is commonly referred to as the Wall Street Rule. While this rule is still followed by many institutional investors, more and more frequently such investors are expressing their criticism of corporate behavior in other ways, either in votes at annual meetings, in conference with company officials, or elsewise.

There are at least two major reasons for this change. First, institutional investors often hold such large blocks of stock in a particular corporation that they find themselves unable to sell them quickly without adversely affecting the price of that stock. Secondly, there are many instances in which an institutional investor finds a particular stockholding attractive and worth holding on to, but finds some proposed bylaw amendment or other practice objectionable enough to warrant a protest. The latter factor has become increasingly important with respect to many of the steps taken by corporate management to deter hostile takeovers, since deterrence of takeovers often eliminates the prospect of substantial stock gains which are usually characteristic of takeover attempts, both those that are successful and those that are not. As is well known, there has been a sharp increase in takeover attempts in recent years, particularly involving large corporations.

Symptomatic of these new trends was the establishment of the Council of Institutional Shareholders in January 1985, largely at the impetus of California State Treasurer Jesse Unruh and California's two largest public pension funds. Consisting largely of major public and labor union pension funds, this organization is pledged particularly to oppose anti-takeover tactics that have an adverse impact on incomes of many institutional investors.

Also significant are the statements by Robert A. Monks, until last year Administrator of the Office of Pension and Welfare Benefit Programs in the U.S. Department of Labor, urging institutional investors to become more concerned about corporate anti-takeover tactics. Thus, in May 1984, he said:

> *When institutional investors don't vote [on takeover issues], or vote without paying close attention to the implications of their vote for the ultimate value of their holdings, they are hurting not only themselves but beneficiaries of the funds they hold in trust. Therefore, it seems to me to be a self-evident proposition that institutional investors have to be activist corporate citizens.*[1]

It should be recognized that many of the large institutional investors, such as banks and insurance companies who manage pension and other investment funds for major corporations, commonly have other close business relationships with them. Banks may be lenders to corporations as well as managers of their pension funds. An insurance company may be a major underwriter to a firm whose pension fund it manages. This makes potential or actual conflict of interest a serious problem. An institutional investor may find itself reluctant to make decisions that are opposed by management of a company whose pension fund it administers, even if it sees the management's position as contrary to the fiduciary best interests of the beneficiaries of the pension fund.

LEGISLATIVE CONCERNS

There is apparently little legislative interest at present to regulate or restrict further the functioning of institutional investors. The most specific regulation of institutional investors on the books currently is that of pension funds under provisions of Employee Retirement Income Security Act of 1974 (ERISA). Investment managers also come under many regulations of the Securities and Exchange Commission and banks under regulations of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

There is, on the other hand, considerable legislative interest in the current proliferation of mergers of large corporations and the methods used to prevent or to promote such takeovers. Institutional investors are showing a lot of interest in legislative proposals that would in one way or another regulate, curtail, or prohibit various merger and counter-takeover tactics that have been adopted in recent years.

The ongoing investigation of takeover tactics and other intercorporate relations by the Subcommittee on Telecommunications, Consumer Protection and Finance of the House Committee on Energy and Commerce, under the chairmanship of Representative Timothy E. Wirth, and the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs, under

Institutional investors have taken over an increasingly large and important place in the marketplace for corporate securities, both bonds and stocks.

the chairmanship of Senator D'Amato, signifies continuing focus in the Congress on many of the principal economic issues that concern institutional investors and others.

LOOKING AHEAD

It appears likely that the full consequences of the growth of institutional investment will continue to unfold in the decades to come. Such growth appears certain for the coming decade, even if perhaps at a slower rate. It seems inescapable that the vast sums acquired, invested and disbursed by institutional investors, notably pension funds, will have an impact on many segments of the economy. They have undoubtedly hastened the rapid and extensive rise in the use of computer and communications technology in the trading of equity securities. The amounts to be invested also create enormous pressures on the decision-making parties as to the nature and timing of the investments to be made.

It is also evident that institutional investors are paying greater attention to the governance of corporations in which they hold investments. This growing attention is clearly being stimulated by the large-scale and widely publicized takeover attempts and the tactics used by corporations to defend themselves against takeovers they oppose. How far institutional investors will, or should, become involved in matters of corporate governance, remains open to extensive speculation and uncertainty.

Julius W. Allen is a consultant on business economics to the Congressional Research Service.

NOTE: For further details, see U.S. Library of Congress. Congressional Research Service. Institutional Investors and their Role in Equity Financing and Corporate Governance. Report No. 85-163 E, by Julius Allen. Washington, 1985. 47 p.

[1]Brownstein, Ronald. When Company Chiefs Fight Takeovers, Who Looks Out for the Shareholder? National Journal, v. 16, July 7, 1984. p. 1307.

Table 1. Market Value of Stockholdings of Institutional Investors and Others 1960, 1970, and 1980 ($ billions at year end)

	1960	1970	1980
1. Private Noninsured Pension Funds	$16.5	$67.1	$175.8
2. State & Local Retirement Funds	0.6	10.1	44.3
3. Open-end and Other Investment Companies	20.7	50.1	46.8
4. Insurance Companies	12.5	28.6	85.2
5. Personal Trust Funds[a]	44.6	83.2	132.9
6. Foundations	13.5	22.0	32.9
7. Other[b]	5.3	10.6	14.6
8. Subtotal	113.6	271.6	532.5
Less:			
9. Institutional Holdings of Investment Company Shares[c]	0.9	4.9	12.6
10. Total Institutional Investors	112.7	266.8	519.9
Plus:			
11. Foreign Investors[d]	15.3	28.7	114.5
12. Other Domestic Investors	293.2	563.9	938.9
13. Total Stock Outstanding[e]	421.2	859.4	1,573.3
14. Estimated Percentage Held by Institutional Investors	26.8%	31.1%	33.1%

[a]Includes common trust funds.
[b]Educational endowments and mutual savings banks.
[c]Excludes institutional holdings of money market funds.
[d]Includes estimate of stock held as direct investment.
[e]Includes common and preferred stock. Excludes investment company shares but includes foreign issues outstanding in the United States.

Source: U.S. Securities and Exchange Commission. SEC Monthly Statistical Review, July 1979 and August 1981.

Table 2. Trading in Amounts of Under 900 Shares and of Over 10,000 Shares of Stock as a Percent of Total Trade on the New York Stock Exchange, 1975-1985

	Reported trades of 900 shares or less as a percent of total trades	Reported trades of 10,000 shares or more as a percent of total trades
1975	42.1%	16.6%
1976	37.8	18.7
1977	33.5	22.4
1978	30.2	22.9
1979	27.5	26.5
1980	24.7	31.8
1981	21.1	31.8
1982	16.2	41.0
1983	14.6	46.0
1984	11.3	49.8
1985 (Jan.-Oct.)	10.5	52.9

Source: New York Stock Exchange. Fact Books, 1976-1985; and New York Stock Exchange, Business Research Division.

The New York Stock Exchange—"Curb Market"—1916 *Library of Congress*

THOMAS H. NEALE
*JOSEPH B. GORMAN**

An Examination Of Historical Trends And National Factors Affecting Party Gains And Losses In The Congressional Midterm Contests

On November 3, 1986, 34 Senators and 439 of 440 members of the House (all 435 Representatives, and the delegates representing the District of Columbia, American Samoa, Guam, and the U.S. Virgin Islands) will be chosen when American voters elect the 100th Congress of the United States. While President Ronald Reagan's 1984 election victory accords him status as a most distinguished "lame duck," the President's party, its congressional adherents, and, by extension, his Administration, must seek approval for the fourth time since 1980 in the midterm congressional elections to be held this year.

As is customary, political analysts, the media, and incumbents seeking reelection in 1986 are viewing developments associated with the coming elections with cautious interest. There have been few surer political bets in 20th century American electoral politics than that a presidential party will lose seats in Congress during off-year elections.

Throughout the century, the party that holds the White House has almost invariably dropped strength in the legislative branch on these occasions. The only major apparent exception to this general rule took place under unusual, perhaps unique, circumstances in 1934, when the Democrats added to their already substantial majorities in Congress at the expense of the GOP. In most of the midterm elections held since 1900, the "party in power" has suffered losses, sometimes disastrous, in one or both houses.

Moreover, the likelihood of midterm elections falling in the second term of an Administration resulting in extensive losses by the presidential party is even greater than other midterm contests. The question to be decided in 1986 will be whether Mr. Reagan and the GOP will suffer a substantial decline in congressional strength, and thus fall prey to the durable phenomenon of the "six year itch."

While the attentions of legislators, candidates, party organizations, and the media are often focused on individual races for House or Senate, an examination of historical developments and national factors, as opposed to locally important issues and circumstances, reveals general trends over the span of years. This article attempts to sort out some of the more widely recognized long-term factors influencing the fortunes of the Republic and Democratic parties in third-term Congressional elections.

FACTORS INFLUENCING THE OUTCOME IN SIXTH-YEAR MIDTERM ELECTIONS

Historically, a range of factors falling into two general categories has been suggested as influencing the vote in sixth-year midterm elections. The first of these can be characterized as the presidential factor.

The Presidential Factor

The incumbent chief executive's popularity, or lack thereof, is frequently cited as one of the contributing elements in the "six year itch." For example, in 1950, President Harry Truman's conduct in office was approved by a meager 39 percent of those surveyed, just prior to midterm elections in which the Democratic congressional strength declined by 29 seats in the House and 6 in the Senate.[1] Conversely, however, the personal popularity enjoyed by a particular President has not often proved to be historically helpful to his party in these elections. In 1958, for instance, Dwight Eisenhower registered a comfortable Gallup Poll job approval rating of 58 percent on the eve of midterm elections in which the Republicans lost no fewer than 49 seats in the House and 13 in the Senate.[2]

In both these cases, and as a general rule, external events and public perceptions of an Administration appear to have had greater effect on the outcome of the congressional contests than has the President's personal popularity. In 1950, for example, shortly after the outbreak of the Korean conflict, the Truman Administration was beleaguered by charges of military unpreparedness, political corruption, and an insufficient devotion to anticommunism. Similarly, Dwight Eisenhower, while personally popular in 1958, was presiding over a severe economic recession, and a period of considerable dissatisfaction among normally Republican farm and rural voters. In light of the current crisis in American agriculture, political analysts have suggested parallels between 1958 and 1986 which would bode ill for the GOP.[3] On the reverse side, however, the GOP enters 1986 having behind them three years of economic growth and little prospect for recession between now and the elections.

From the standpoint of personal popularity, President Reagan has followed the Eisenhower pattern fairly closely: public approval of his conduct as chief executive remained high throughout 1985 and into the new year, reaching 68 percent in a CBS News/New York Times Survey released January 5, 1986. His handling of key issues, however, was found in recent Harris and Gallup surveys to be supported by smaller majorities or pluralities of those polled, perhaps reinforcing the arguments of those who suggest the 1958-1886 parallel.[4] Of course, it remains to be seen whether the President's current popularity will persist through the elections, and, further, whether it will have a favorable effect on GOP chances in the midterm contests, in light of historical patterns.

Voter Turnout Decline and the Coattails Effect

Another consideration related to the presidential factor is a de-

Thomas H. Neale is an analyst in American National Government, Government Division

**Joseph B. Gorman died shortly after completing work on this article.*

cline in voter turnout that almost invariably occurs in the midterm following a presidential election. Most recently, for example, the percentage of the voting age population which reported voting declined from 59.2 in 1980 to 48.5 in 1982, according to Census Bureau survey findings.[5]

Barring unforeseen and dramatic circumstances, there is little reason to believe that this traditional pattern will not repeat itself in 1986. Moreover, this fall-off in voting participation has historically been hazardous for the presidential party-in-power, as detailed in the recent National Journal review of the 1986 congressional contests:

In a presidential year, the number of people who turn out to vote is about 25 percent greater than in a midterm election. Most of these casual voters have weak partisan and ideological moorings. Because their votes reflect the mood of the country, they tend to give heavy support to the winning presidential candidate and to his party. This presidential-year bonus vote disappears at the ensuing midterm, when it is mostly committed partisans who show up at the polls. The result is that members of the President's party, many of whom got elected because of the presidential-year bonus vote, are exposed to a less favorable midterm electorate.[6]

In addition, the asymmetrical nature of congressional and Presidential terms places adherents of the incumbent's party in jeopardy in both houses of Congress. The Senators up for re-election in a sixth-year midterm were originally elected with the President; after six years they are candidates in an election without a presidential contest.

The same logic holds for House members of the chief executive's party who depended on a heavy turnout for a popular incumbent of their own party in the previous presidential election: such Representatives will now be required to face the voters without such advantage as was afforded by the President's coattails.

This phenomenon has been frequently noticeable in the results of sixth-year midterm elections immediately following reelection of an incumbent chief executive by a landslide victory in which his party's congressional nominees benefitted from the coattails effect. An example was the 1966 House elections, in which the Democratic Party, which had picked up 38 seats in President Lyndon Johnson's 1964 landslide victory, lost 47 seats to the resurgent GOP. While particularly spectacular from the standpoint of reversal of party fortunes, the 1966 contests were not, however, "typical" sixth-year midterms: the effect of the usual decline in voting was also magnified by voter concern over Great Society programs, increasing social unrest, and U.S. involvement in Vietnam.

GOP House prospects in 1986 may be better than those of the Democrats in 1966, as many of the negative external factors influencing the midterms of two decades are missing early in the year. Moreover, Ronald Reagan's 1984 victory was matched by

Political convention, circa 1912

Library of Congress

only modest Republican gains of 15 seats in the house, with the result that there are simply fewer GOP incumbents defending new seats in 1986.

Party strength in the Senate, while traditionally more insulated from these effects, seems vulnerable for the Republicans in 1986, due to the magnitude of Republican gains in the upper house in 1980. Of 34 Senate seats up for election, GOP incumbents must defend 22, including those held by 16 freshmen, many of whom may have owed much of their 1980 margins of victory to the popularity of Ronald Reagan. Nine freshman Republican senators seeking reelection in 1986 won their seats with 52 percent or less of the vote.[7]

Other Factors—Time for a Change, Divided Government, Political Blunders

Conventional wisdom holds that by the end of six years, voters have begun to lose interest in the policy initiatives pushed by an incumbent Administration, and are ready for a change. Further, with the passage of time, public memory of the policies and activities of the previous Administration, which may once have been regarded with displeasure, may have faded to the extent that the reelected President and his party may no longer seem as fresh and attractive as they once did.

A related political consideration is the regular recurrence of the "time for a change" impulse among the American voting public. This perhaps indefinable, and almost certainly unquantifiable, phenomenon seems to reflect the general restlessness of the American people, a highly mobile nation and society sometimes accused of having a short collective attention span. Americans may simply grow bored or disenchanted with the personalities and policies of an incumbent President and his party affiliates in Congress, and turn to the alternative for a change of pace.

Of some interest is evidence that the American people are comfortable with the prospect of divided control of government, and do not share the passion for "responsible government" frequently expressed by observers of the American political system. A recent Harris Survey noted that 75 percent of those adults polled thought that having a President of one party, and Congress controlled wholly or partly by the other was either better for the country, or made no difference.[8] Thus, the voters in 1986 may be less inclined to make their decisions in response to appeals to "give the President support in Congress," or to preserve the mandate of 1984.

A final element to be considered in this category could be characterized as the political blunder factor. Conventional wisdom holds that Presidents reelected with large margins are susceptible to political missteps that lead to disaster for their congressional allies in the sixth-year midterm elections. Two generally accepted examples of this hubris-nemesis cycle are the elections of 1938 and 1974. Democratic losses of 71 House and 6 Senate seats in the former year can be at least partially attributed to President Franklin D. Roosevelt's unpopular and unsuccessful effort to "pack" the Supreme Court. More recently, in 1974, the voting public turned on Republicans in Congress in the wake of the Watergate scandal; GOP losses amounted to 43 House and 3 Senate seats, and the demise of the Republican Party was widely, but erroneously, predicted.

External Influences—Economics, Social Considerations, International Affairs

Another group of factors could be characterized as external influences on the outcome of sixth-year midterm elections, although it is perhaps inaccurate to separate external influences from presidential or political considerations, in light of their obvious interrelation. Indeed, insofar as such elements as general economic conditions, international conflicts, levels of inflation and unemployment are the result of policies implemented by the party in power, then a cause/effect ratio could be said to exist. While presidential and political factors certainly play an important role in influencing the voters' decisions, the importance of economic, social, and foreign policy issues should not be neglected.

Economic factors, as noted above, are perhaps the most important element in this category. GOP losses in the 1958 congressional elections have been attributed, in large part, to a major recession for which the Eisenhower Administration and the Republicans in general were blamed. Sixteen years later, surging inflation coupled with increasing unemployment and economic stagnation similarly contributed to the GOP debacle in the "Watergate" midterm of 1974.

At the present writing, the state of the national economy is such that, aside from the continuing crisis in the agricultural sector, this group of factors may have only moderate influence on the outcome of the 1986 elections.

Inflation remained low in 1985, with the Consumer Price Index rising at an annual rate of only 3.8 percent. Moreover, prices give little indication of returning to the alarming increases of the nineteen seventies: economic projections for the fourth quarter of 1986 by selected private forecasters show the CPI rising at moderate rates, varying from 3.3 to 4.3 percent.[9]

Unemployment, while substantial by long-term postwar standards, dropped to a six-year low of 6.9 percent in November of 1985. Nor do selected private forecasts anticipate major growth in the number of the unemployed during the year to come, projecting a jobless rate of between 6.8 and 7.5 percent for the fourth quarter of 1986.[10]

The Gross National Product, the broadest measure of economic activity, increased at a modest rate in 1985, growing 2.3 percent. It has been predicted that economic growth for 1986 will continue at a moderate pace, with projections ranging from 2.8 to 4.5 percent annual rate of increase for the fourth quarter of 1986.[11] A recent analysis by *The New York Times* suggested that the United States will experience a "soft landing" during the coming year, a growth recession in which the economy "will not go down any further, and it is fit to ascend to faster growth again without a lot of pushing. It beats the far more common aftermath of a boom—the crash landing of full-blown recession, a declining gross national product."[12] Notwithstanding these relatively favorable auguries, Republican office-holders and campaign strategists will undoubtedly be watching the economic indicators anxiously in the months to come.

Social concerns have also contributed to the midterm election equation at times, notably in 1966, when the Johnson Administration and the Democrats in Congress were widely blamed for the unrest which accompanied the civil rights revolution and other far reaching social change, including a series of destructive riots in black neighborhoods of major cities.

While surveys have usually indicated that American voters generally take little account of international affairs when considering which candidate to vote for, there have been exceptions in the past. One notable example is again provided by the 1974 elections, when the disruptions associated with an Arab boycott of oil sales to the United States following the 1973 Arab-Israeli conflict, and concomitant quadrupling of crude oil prices by OPEC were undoubtedly factors in the Republican defeat in that year.

THEORIES OF PRESIDENTIAL PARTY LOSSES IN MIDTERM ELECTIONS

Over the years, political scientists and observers have attempted, with varying degrees of success, to quantify the factors involved in predicting the outcome of midterm congressional elections.

One theory hinges on the coattails effect, also known as "surge and decline," which earlier in this century replaced the previously

favored explanation of midterms as referenda on the Presidential Administration and party-in-power. The surge and decline theory characterized elections of this variety as:

. . . low stimulus election(s), creating a decline in information and in turnout. The general level of political information is comparatively low and is not necessarily as favorable to the President and party. Moreover, the low-stimulus election only brings out the core voters, voters less susceptible to persuasion by short-term information and significantly more partisan than the peripheral electorate.[13]

In the past decade, the surge-decline theory of midterm election losses has been largely supplanted by a presidential popularity-economic conditions formula, which seeks to arrive at a reliable prediction of losses which can be anticipated by the party-in-power by examining the levels of these two variables in the months preceding a midterm election.[14]

Proponents of these two methods of predicting midterm election results have constructed and used mathematical formulae embodying their respective principles in efforts to predict actual seat gains and losses, although not always sucessfully. In 1982, for example, Professor James R. Tufte, an originator and proponent of the popularity-economy model, predicted a Republican loss of 40-45 seats in the House of Representatives.[15] The actual number of seats dropped by the GOP in the 1982 midterm came to the substantially lower total of 26.

More recent research by James E. Campbell, of the University of Georgia, suggests that an integrated approach, combining all three variables (surge and decline, presidential popularity, and economic conditions) may come closer to an accurate prediction of seat gains or losses in a midterm election.[16]

After surveying the 10 midterm elections between 1946 and 1982, he found that, by discounting the effect of the state of the economy, which he determined had a lesser effect on midterm results than expected, and by incorporating a variable which reflected the decline in party voting and the rise in incumbency advantage, his integrated model showed an average absolute error of slightly more than four seats over actual results. Using his model, Professor Campbell predicts a loss of between 34 and 39 seats in the House for the GOP in 1986, depending on the trend correction term used.[17]

EMERGENT VARIABLES

By the most conservative reckoning, nearly 30 years have passed since the last "classic" sixth-year midterm election, the 1958 congressional contests of the Eisenhower era, while even the Watergate elections of 1974, though not directly parellel, lie 12 years in the past. Developments in campaign management strategies, incumbent advantage enhancement, survey research techniques and other factors have revolutionized the conduct of congressional election campaigns in that interval.

A notably visible factor has been the remarkable development of campaign financing and management techniques by the national parties, particularly the GOP. During the two year election cycle which included 1983 and 1984, the three national committees of the Republican Party (Republican National Committee and Senate and House campaign committees) spent $250,000,000 for all purposes, according to the Federal Election Commission, while the comparable Democratic Party groups spent the smaller, but still significant total of $71,000,000.[18]

These expenditures included direct contributions, as well as an increasingly varied and sophisticated array of campaign services, such as candidate recruitment and education programs, staff training, media management assistance, direct mail targeting assistance, ongoing survey research support and others.

Similar services, including sophisticated, custom designed, direct mail fund raising programs are provided by a growing array of private groups specializing in campaign development and management. Nor can the enormous influence of political action committees on the elections process be ignored.

Another development has been an increasing expertise on the part of current members of Congress in maximizing the benefits conferred by incumbency. In recent years, such innovative techniques as mobile district offices and massive constituent mailings have evolved, while casework and constituent services has been brought to a peak of efficiency in many offices. The results of these developments were noted as early as 1981, when Albert D. Cover and David R. Mayhew observed that:

At the constituency level—on the House side anyway—elections to Congress have become less competitive. Fewer representatives have been winning their seats by narrow November margins, more by "safe" margins.[19]

The decline in competition in contested House elections cited by Cover and Mayhew could have special relevance for 1986, in light of the small number of Representatives who had announced retirement plans by the time of this writing. Although six Senators planned to retire as of January, 1986, only 25 House members were planning to depart, either to retire, or to seek other office. Comparable figures for other midterm elections were 44 House and 7 Senate retirees in 1974, 53 House and 9 Senate in 1978, and 42 House and 3 Senate in 1982. Moreover, even in the case of open seats or those held by vulnerable incumbents, it has occasionally proved difficult to recruit candidates.

A final consideration in the 1986 elections equation, perhaps in the nature of a wildcard, is the potential effect of the Gramm-Rudman-Hollings legislation. Critics of the law have predicted that its deficit reduction provisions will lead to strife within government, and a subsequent adverse public reaction embracing incumbents of both parties.

[1]Presidential Popularity—Harry S. Truman. The Gallup Opinion Index, Oct.-Nov., 1980, p. 34.

[2]Ibid., Dwight D. Eisenhower, p. 30. In ?

[3]Gurwitt, Rob. Mood of Rural Midwest Keeps GOP on Edge. Congressional Quarterly Weekly Report, v. 43, Nov. 16, 1985, p. 2365-2369.

[4]Gallup, George, Jr. Solid Majority Backs Reagan's Leadership: Fewer Endorse His Handling of Key Issues. Gallup Poll, Oct. 31, 1985, p. 2.

[5]U.S. Department of Commerce. Bureau of the Census. Current Population Reports. Voting and Registration in the Election of November 1984. Series P-20, No. 397. Washington, U.S. Govt. Print. Office, 1985, p. 1.

[6]Schneider, William. 1986: The 'Six Year Itch.' National Journal, v. 17, Dec. 7, 1985, p. 2757.

[7]Cook, Rhodes. Will the 'Six-Year Itch' Strike Again. Congressional Quarterly Weekly Report, v. 43, June 29, 1985, p. 1286.

[8]Harris, Louis. Clear Majorities Support Divided Government. The Harris Survey, December 2, 1985, p. 2.

[9]Hariston, Pamela and Brian Cashell. Selected Economic Indicators. CRS Issue Brief 81233, updated Jan 8, 1986, p. 2. and Cashell, Brian. The Economic Outlook: A Comparison of Econometric Forecasts. CRS Issue Brief 83224, updated Dec. 13, 1985, p. 3.

[10]Hariston, Pamela and Brian Cashell. Selected Economic Indicators, p. 3.

[11]Ibid.

[12]Kilborn, Peter B. Economy Seen Settling Into a 'Soft Landing.' New York Times, Nov. 21, 1985, p. D1, D11.

[13]Campbell, James E. Explaining Presidential Losses in Midterm Congressional Elections. The Journal of Politics, v. 47, Nov. 1985, p. 1141.

[14]Ibid., p. 1142, 1143.

[15]Clymer, Adam. Moving Beyond Electoral Hunches. New York Times, Aug. 6, 1982.

[16]Campbell, James E. Explaining Presidential Losses, p. 1147, 1148, 1154.

[17]Ibid., p. 1153, 1154.

[18]U.S. Federal Election Commission. FEC Final 1984 Report Shows Republicans Still Hold Financial Lead. Press Release, December 5, 1985, p. 3.

[19]Cover, Albert. D. and David R. Mayhew. Congressional Dynamics and the Decline of Competitive Congressional Elections. In: Dodd, Lawrence C. and Bruce I. Oppenheimer. Congress Reconsidered. Washington, Congressional Quarterly Press, 1981, p. 62.

The 27th Congress of the Communist Party of the Soviet Union

The Communist Party of the Soviet Union will hold its 27th Congress in February-March of 1986. The Party Congress will take place less than one year after Mikhail Gorbachev succeeded the late Konstantin Chernenko as General Secretary in March 1985. It is also the first congress of the post-Brezhnev era. The Party Congress will provide Gorbachev the opportunity to continue to install in office his political allies and push his economic programs. It will probably see further progress in the younger generation's bid to assume greater control of the nation's life.

MICHAEL DIXON

In addition, the Congress will adopt a new Party Program and new Party Rules, or Statutes, and ratify the details of the 12th Five-Year Plan (1986-1990). The coincidence of these important actions, coming so soon after Gorbachev's rise, offers the Soviet leader a rare opportunity to shape the future of the Party, Soviet society and ideology, and the national economy. Only in 1961, at the 22nd Party Congress, were circumstances similar when Soviet leader Nikita Khrushchev was able to adopt a new Program and new rules for the Party.

Conditions are similar in other ways. Gorbachev, like Khrushchev, appears to represent a new generation of Soviet rulers with different policies and objectives from their predecessors. They each succeeded a long-term leader who had succeeded in shaping the Party apparatus and many aspects of Soviet society to suit his purposes.

According to the rules of the CPSU, the Party Congress is the "supreme organ," and as such is theoretically the nation's highest ruling authority. In reality, the Congress is not the leading organ or institution. Virtually all issues taken up by the delegates to the Congress have already been decided in meetings of the Central Committee and the real ruling organ, the Politburo. The Congress in effect acts as a forum to display Party unity and legitimize the rule of the members of the Politburo and the Central Committee. At the Party Congress, public discussion and deliberation are forbidden.

The meeting in Moscow, composed of nearly 5,000 delegates from republic party congresses and from provincial party congresses of the Russian Republic, is called the "All-Union Communist Party Congress." The Party Congress meets periodically, usually every five years, and formally sets policy. The Party Congress elects the Central Committee to guide Party policy between Congresses. The Central Committee, numbering approximately 300 full (voting) members and 150 candidate (non-voting) members, meets twice a year for a few days. It in turn elects the members of the Politburo and the Secretariat, that together exercise day-to-day control over Party policy. The Politburo is responsible for important decisions and wields ultimate authority in the Party.

According to the Party rules or statutes, the Congress has four principal functions: 1) it hears and approves the reports of the Central Committee, the Central Auditing Commission and other central organizations; 2) it reviews, amends and approves the party program and statute; 3) it determines the party line on questions of domestic and foreign policy and examines and decides on the most important problems in the building of communism; and 4) it elects the Central Committee and Central Auditing Commission. In effect, the Congress functions as a forum in which Soviet policies discussed at higher levels are announced and leadership trends become evident.

Since the last congress was held in early 1981, the Soviet leadership has undergone a transformation. The leadership of Mikhail Gorbachev represents a new generation of Soviet policymakers dominated by technocrats and apparently dedicated to more pragmatic economic reforms and removing entrenched elders and Brezhnev loyalists from positions of responsibility within the party and government. In a speech to the April 23 Central Committee plenum on the tasks of the 27th Congress, Gorbachev signaled that changes would be in order and prepared his audience for his political agenda:

The forthcoming 27th CPSU Congress will indisputably be a milestone in the country's development. Its significance is due to the paramount importance of the issues submitted for discussion, the nature of the present period, and the newness and scale of the tasks facing society. This adds a special tone to all of the party's precongress work and demands profound

understanding of the existing situation, bold decisions, and vigorous activity.[1]

The 27th Party Congress is likely to be eventful for several reasons. First, the Congress will be used by the Gorbachev leadership to strengthen its hold on the ruling bodies of the Party and government. Although Gorbachev has made numerous high-level changes since he succeeded Konstantin Chernenko in March 1985, many more may be announced at the Congress. In addition to high-level replacements and promotions, large-scale turnover in the powerful Central Committee can be expected. Gorbachev has already demoted a number of government ministers and regional and local party leaders; this process could continue at the Congress. Brezhnev loyalists within the Party bureaucracy will attempt to thwart wholesale personnel changes.

Second, a new Party Program, initiated by Leonid Brezhnev at the 26th Party Congress in 1981, will be adopted at the next Congress. This will be the Soviet Party's third program since the Bolshevik revolution and the first since Khrushchev's program of 1961. The Party Program establishes long-term ideological, political, economic and social objectives for the nation. The Khrushchev program is viewed as woefully outdated and requiring revision or replacement. (That program predicts, for example, that the USSR will overtake the United States in industrial production by the year 1980.) The doctrines and goals that the Party adopts at the Congress are expected to guide it for many years to come. On October 26, 1985, the Party published a draft of the Program.[2]

Third, the Congress will also amend its Party rules. In some respects, the Rules are even more important than the Program. While the Program sets out the Party's goals in general terms, the Rules govern how the Party operates from day to day.[3]

Finally, the 12th Five-Year Economic Plan will be formally adopted, which will establish Soviet priorities in production and investment and should provide further insights into Gorbachev's economic reform program.

THE NEW LEADERSHIP UNDER GORBACHEV

With the election of Mikhail Gorbachev to the post of Party Secretary in March 1985, the post-Brezhnev succession appears to have been finally settled. Since Leonid Brezhnev died, three General Secretaries have been elected to replace him: Yuri Andropov in November 1982, Konstantin Chernenko in February 1984, and now Gorbachev (age 54). This multi-stage struggle was carried out between the forces of an "old guard" that has held on to power for decades and a younger, better educated generation of new leaders eager to replace them.[4] Broadly stated, the struggle has been between those who favor continuity and those who want change, experimentation, and modest reforms, particularly in the economic sphere.

Since becoming General Secretary in March, Gorbachev has asserted his power more quickly than most Western analysts had anticipated. In a short time, he has installed new faces in key leadership positions, removed rivals, and sought to implement his policies, including reinvigorating the economy, and getting rid of corrupt and ineffective leaders.

The first series of changes occurred at the Central Committee Plenum on April 23, six weeks after he was elected. The vacancies in the Politburo gave Gorbachev a rare opportunity to install his allies in position of authority. Gorbachev elevated two junior Secretariat members, Yegor Ligachev (age 64) and Nikolai Ryzhkov (age 56), to full membership of the Politburo. At the same time, KGB head Viktor Chebrikov was promoted from candidate to full member of the Politburo. Marshall Sergei Sokolov, who replaced the late Dmitri Ustinov as Defense Minister in December 1984, became a candidate member of the Politburo. In addition, the plenum named Viktor Nikonov (age 56) to the Secretariat with responsibilities for agriculture.

The changes made in the Politburo and Secretariat bring to the leadership men with reputations for efficiency and technical experience and a close association with Andropov and Gorbachev and their views on economic issues. On September 27, 1985, Ryzhkov was appointed Chairman of the Council of Ministers, or Premier, replacing Nikolai Tikhonov (80 years of age), who after five years in office was retired for "health reasons."

With abilities in economic planning and industrial management, it is expected that Ryzhkov will be active in promoting Gorbachev's economic reform proposals. Ryzhkov's rise began in November 1982 when Andropov chose him to head the Central Committee economic department. Until then he was First Deputy Minister of Heavy and Transport Machine Building and the First Deputy Chairman of Gosplan, the central state economic planning body.[5] Ryzhkov's appointment to head the government assures that the day-to-day affairs of the government and its ministries will be under the control of the Gorbachev leadership.

Ligachev, also a Gorbachev ally, was the Secretary in charge of Party cadres, or personnel. This was considered an important position with responsibilities for Party appointments and promotions. Ligachev is also reported to be the unofficial "second" secretary with responsibilities for supervising ideology.[6] The job of ideology secretary is usually reserved for the second in command in the Kremlin.

Another wave of leadership changes was announced at the Central Committee Plenum of July 1 and the following day at the Supreme Soviet session. In a stunning move, Grigoriy Romanov was ousted from the Politburo and the Secretariat. Soviet news reports said that the plenum had accepted a "request" from Romanov to be relieved of his official duties "on health grounds." Romanov was widely seen as Gorbachev's principal rival for the top post who had opposed his accession to power and posed a threat to challenge his leadership.

On the next day, Andrei Gromyko was appointed Head of State, or chairman of the Presidium of the Supreme Soviet, a largely ceremonial office, and was relieved of his post as Foreign Minister and First Deputy Premier. Gorbachev named the largely unknown Eduard Shevardnadze, first secretary of the Georgian republic, to fill the Foreign Minister position.

Shevardnadze's appointment as Foreign Minister was completely unexpected among Western observers.[7] He has had little experience in foreign affairs aside from representing the Soviet Union at foreign communist party congresses or as a member of parliamentary delegations. He served as the head of the Georgian internal security apparatus (1965-1972) and then as Georgian first secretary from 1972 to 1985, and was promoted to candidate member of the Politburo in 1978. His reputation as a "tough cop" and a political fighter was formed as a result of his success in cleaning up the rampant Georgian corruption and invigorating the republic's economy.

In addition to these changes in the leadership, the July 1 plenum also appointed Boris Yeltsin and Lev Zaykov to the Secretariat. Yeltsin, a former party leader of Sverdlovsk, was brought to Moscow by Gorbachev in April 1985 to head the Construction Department of the Central Committee. Yeltsin joins other West Siberian leaders, Ligachev from Tomsk, and Ryzhkov also from Sverdlovsk, who share Gorbachev's innovative ideas for reform and a skeptical attitude toward the central government bureaucracy.

With these changes in the leadership, and the previous promotions of Ligachev and Ryzhkov to the Politburo in April, Gorbachev has installed in office four new members of the Politburo and three new

Central Committee Secretaries. These also include KGB chief Chebrikov and Foreign Minister Shevardnadze in the Politburo and Viktor Nikonov in the Secretariat. Aside from Gromyko (who appears to be sympathetic to Gorbachev's purposes), only two other full Politburo members (Kunayev, and Shcherbitskiy) out of twelve remaining were appointed by Brezhnev. The remainder were appointed by either Andropov or Gorbachev.

Gorbachev will also seek to secure a majority in the Central Committee at the Congress. The new Central Committee is likely to contain as many apparatchiks as possible who follow the policy of the new leadership. Gorbachev appears ready to make as many changes as he can. In late 1985, only 73 percent of the members of the Central Committee elected at the 26th Congress in 1981 were left. A large number were demoted by Andropov or Gorbachev, retired, or died in office. The turnover at the upcoming Congress promises to be one of the highest in recent congresses. Thus the average age of the Central Committee will fall sharply. As of early 1986, Gorbachev had made a number of personnel changes: 19 of 59 ministers, 45 of 159 regional party first secretaries, and four of 14 republic party first secretaries have been replaced.[8]

THE PROGRAM OF THE CPSU

The Communist Party of the Soviet Union will adopt a new program at the next Party Congress. The Program of the CPSU represents the leadership's assessment of the state of the Soviet Union's development, sets long-range priorities and objectives, and charts future domestic and international policies.

Is the Program important? A negative answer might suggest that Soviet ideological notions are often cited but rarely practical in guiding action in everyday life. On the other hand, Andropov and Gorbachev have emphasized the need for having a useful guide that would be more effective in political, social, and economic terms.

The next Program will be the fourth adopted by the party. The first Party Program was adopted in 1903 and the second at the Eighth Party Congress in 1919. Described by one writer as "visionary, mystical" and a "romantic extravaganza,"[9] this program was obsolete almost as soon as it was accepted.

It was only after Khrushchev ousted his opponents in the leadership and consolidated his authority that the Third Program was completed and adopted at the 22nd Party Congress in October 1961. Because of the experience of the intervening four decades and the presence of a new Soviet leader, the 1961 Program was radically different from that of 1919. For example, it proposed the notion of coexistence with capitalism and imperialism, rather than rejecting it as Lenin did in 1919. Wars were no longer viewed as inevitable and the principal of non-alignment among the states of the Third World was advocated. The 1961 Program also claimed that the Soviet Union had reached socialism and was thus on the road to the construction of full communism. The Program concludes with the infamous prediction that, "The present generation of Soviet people will live under communism." Recent Soviet theory moderates Khrushchev's optimism and envisions the arrival of full communism sometime in the distant future.

In the mid-1970's, Soviet leaders publicly recognized the need for a new Party Program. At the 26th Congress in 1981 Brezhnev announced the beginning of the process that would draft a new program. Statements by leaders from Brezhnev to Gorbachev suggest a consistent theme: that the advent of full communism is much further away than the Khrushchev Program predicted.

The CPSU released a draft of the Program on October 26. The first section, a historical overview of the transition from capitalism to socialism, basically confirms the correctness of the Soviet path to full communism and proclaims the inevitability of the ultimate victory of communism in the world, despite the "threat to peace being created by the policy of aggressive forces of imperialism." The Program states that in "a world packed with acute contradictions and in the face of threatening catastrophe, there is just one sensible, acceptable way out—the peaceful coexistence of states with different social systems." It adds that "there is no fatal inevitability of world war."

Although the draft says that capitalism is historically doomed and the crisis of capitalism is deepening, it is "constantly maneuvering to adjust itself to the changing situation," and thus postponing its demise. With reference to the United States, the draft states that the "CPSU favors normal, stable relations . . . which presuppose noninterference in internal affairs, respect for each other's legitimate interests, . . . the implementation of identical security. . . . Differences of social systems and ideology are not a reason for tense relations."

While the Khrushchev program proclaimed that "imperialism has entered the period of decline and collapse," the 1985 program is less optimistic about its demise. It describes capitalism as "still strong and dangerous" but it has "already passed its zenith." It adds that capitalism's "sphere of domination is narrowing irreversibly and it is becoming increasingly obvious that it is historically doomed."

The Program also asserts the "Soviet people's one desire—to engage in creative labor and live in peace with all peoples." The main aims of the Party's foreign policy are:

—*to ensure the favorable external conditions for the improvement of socialist society and for the advance toward communism in the USSR . . .*
—*to steadily extend and deepen the USSR's cooperation with fraternal socialist countries . . .*
—*to develop equal, friendly relations with the countries which have gained liberation . . .*
—*to maintain and develop the USSR's relations with capitalist states on the basis of peaceful coexistence and business-like, mutually advantageous cooperation.*
—*international solidarity with the communist and revolutionary democratic party, the international workers' movement, and the people's national liberation struggle.*

The Program devotes considerable attention to the Party's tasks in developing Soviet society. The economy is given considerable attention. Gorbachev avoided making many specific predictions, but made the doubling of production by the end of the century a goal of the Party. The Program says "we are faced with implementing a new technical reconstruction of the economy," and that "structural changes in the economy" are required. Specific areas of the economy are marked for improvement: natural resources, labor productivity, investment policy, heavy industry, machine-building, construction, Siberia, and foreign trade.

The 27th Party Congress will also adopt new Party rules. That new rules will be adopted at the same time that a new party Program is being framed suggests that the modification of the rules represents part of a general policy of redefining the role and responsibilities of the CPSU and could be a part of Gorbachev's strategy to effect policy and personnel changes.[10]

In many respects, the rules are more important for the leadership and for policymaking than the Program because they regulate the day-to-day operations of the party and dictate the complex series of relationships among the many Party organizations. In effect, the rules define where political power lies in the Soviet hierarchy. It is unlikely that the new rules will sharply alter the overall structure of power, but they may be used by the

Continued on page 19

AYMOND W. COPSON

SOUTHERN AFRICA AND THE UNITED STATES: U.S. REGIONAL POLICY AT A CROSSROADS?

Southern Africa is a region of increasing interest to many Americans, and one that is of growing prominence in U.S. foreign policy. Both Congress and the executive branch seem to be dealing with southern African issues more frequently than in the past, and the debate on U.S. policy toward the region has at times been intense.

Americans view southern Africa from varying perspectives and ve differing opinions on the priority of U.S. interests there. But veral interests would appear on most lists. These include the im-rtance of securing increased respect for human rights in South rica; the need to reduce the Soviet and Cuban presence in An-la and Mozambique and to prevent the growth of Soviet influ-ce in other countries of the region; and the desirability of celerating economic development throughout a region of great tential wealth—both on human rights grounds and in order to se-re increased trade and investment opportunities for the United ates. The rich mineral deposits found in South Africa, mbabwe; Namibia, and Angola are of great concern, as are the ipping lanes around the southern African coast from Europe and e Americas to the Persian Gulf and Asia. Finally, for observers varied perspectives, southern Africa raises important symbolic sues that could affect the tone and character of U.S. relations th the African states, the Soviet Union, and possibly other coun-es for years to come.

The current U.S. policy toward southern Africa is called "con-uctive engagement," and it is perhaps best known for its advo-cy of communication or dialogue with the South African govern-ent in order to promote racial reforms. But the United States is so pursuing a number of regional objectives under the policy nich are intended to bring about a relaxation in regional tensions. ese objectives include a withdrawal of the estimated 35,000 Cu-n troops in Angola, an internationally acceptable peace settle-ent in Namibia, a peaceful resolution of the internal strife in An-la, and improved relations between Mozambique and the United ates.

Under constructive engagement, the relaxation in regional ten-ons and the racial reforms in South Africa were to be mutually nforcing. That is, South Africa would be assured by the regional bilization that it could undertake further reforms without undue orry about foreign threats; while its neighbors would see that anges were taking place in South Africa and that better relations re possible.

With respect to South Africa, the policy has come under increas-strain because of the continuing racial violence in that country d the limits of the reforms the South African government seems lling to undertake. U.S.-South African relations have deterio-ed, as reflected in official U.S. criticisms of South Africa's poli-s and in the limited economic sanctions imposed by President agan against South Africa in September 1985.[1] Many observers estion whether the objective of peaceful reform in South Africa n now be achieved.[2]

Meanwhile, recent developments have called the regional as-cts of the policy into question. These developments include an offensive by the Marxist government in Angola against the UNITA guerrillas of Jonas Savimbi and an apparent renewal by South Africa of its policy of armed intervention in neighboring states when it deems such action necessary. South Africa's open acknowledgement that it has been aiding rebels in Angola and Mozambique has placed addditional strains on regional relations.

RECENT REGIONAL DEVELOPMENTS

A number of recent developments in southern Africa appear to have sharply reduced prospects for regional peace and stabilization, at least in the short term. In Angola, fighting between the Cuban and Soviet-supported forces of the Angolan government and the armed guerrillas of Jonas Savimbi's UNITA has intensified, and many observers anticipate a renewal of a government offensive into UNITA's home region in the southeast once dry weather returns in February or March. Meanwhile, in South Africa, mine explosions near the borders with Zimbabwe and Botswana, as well as a number of other recent incidents that have taken white lives, appear to have increased the sensitivity of the white population and the government to the threat of the infiltration of arms and guerrillas from neighboring states. In January 1986, South Africa enforced a virtual economic blockade against Lesotho in order to force that country to cease sheltering African National Congress (ANC) opponents of the white regime, and it appears that this pressure contributed to a military coup in that landlocked nation. Many observers believe that South Africa's pressure on Lesotho reflects a renewed determination to force its neighbors to withdraw all support from the ANC.

In June 1985, South Africa installed a new regime in Namibia, the vast but thinly-populated territory it has occupied since World War I. This multi-racial government appears to have considerable local autonomy, but it remains dependent on South Africa for defense and foreign affairs and South Africa is expected to retain great influence over all its policies. Many analysts suspect that the creation of this regime signals an end, at least for the time being, to hopes for early implementation of a UN-sponsored peace plan for Namibia. U.S. diplomats under the Reagan administration had sought the phased implementation of this peace plan in conjunction with the step-by-step withdrawal of Cuban troops from Angola.

Mozambique, meanwhile, continues to face a rebellion by armed guerrillas that operate over a wide range of its territory. The Marxist regime in Mozambique reached a nonaggression pact with South Africa in 1984, pledging each side to cease support for opposition forces in the other country. Whether this agreement will endure, however, is in question, especially since South Africa has acknowledged some limited continuing support for the guerrillas.

The South African Railways' "Blue Train" *South African Tourist Corp.*

South Africa argues that its violations of Nkomati are only "technical" in nature and intended to maintain contact with the Mozambique guerrillas in order to promote a peaceful settlement of the conflict. Mozambique, however, maintains that the South African violations have been much more substantial than the South African government admits.

The Reagan administration has favored better relations with the government of Mozambique in order to gain its support for regional stabilization and to reduce its dependence on the Soviet Union. For FY86, the administration initially sought some $17 million in economic aid and $3.15 million in military assistance for Mozambique. Congress, however, imposed a number of conditions on military aid,[3] including a required Presidential certification that the country was making a concerted effort to comply with international human rights standards before such aid could be given. The final FY86 aid allocation for Mozambique, announced in early February, was $9.57 million in economic aid, in addition to a projected $10 million in food assistance, and no military aid. The administration has requested $15 million in economic assistance and $10 million in food aid for FY87.

THE U.S. POLICY DEBATE

Constructive engagement, for its critics, is no longer useful as a regional policy because it bears too little relation to the regional situation. The policy's stated objectives are so unlikely to be realized, at least for the foreseeable future, they maintain, that a new approach to the region is required.

For some, it is South Africa that has made constructive engagement irrelevant by delaying Namibian independence and intervening, or threatening to intervene, in neighboring states. They see the South African government as pursuing a policy of "destabilization" that only forces its neighbors into greater hostility toward the white South African government and compels them to turn increasingly to the Soviet Union and Cuba for assistance. From this perspective, the most effective way for the United States to promote regional stability and peaceful change is to take strong action to restrain South Africa. If this is not done quickly, some believe, South Africa is likely to deepen its involvement in Angola and Mozambique, and possibly to launch strikes directed against the ANC into other states in the region.

For others, it is the Soviet Union and its local Marxist allies, Angola and Mozambique, who are responsible for the current instability in the region. They favor more forceful U.S. tactics, aimed directly at foiling Soviet and Cuban ambitions in southern Africa. From their perspective, U.S. efforts to foster a dialogue with the Angolan and Mozambican governments, or trying to "wean" them from Soviet influence by diplomatic means or foreign aid are misguided. For most who take this position, U.S. assistance—whether military or humanitarian—to Savimbi's UNITA is long overdue, and some also favor aid to the rebels in Mozambique.

For still a third group, southern Africa's distance from the United States, as well as the complexities and difficulties of the southern African situation, make a sharply reduced regional role for the United States an attractive option. The United States has a limited ability to influence the governments of southern Africa, according to this view, and attempts to do so through constructive engagement have only led to frustration and damage to U.S. prestige. A great crisis may be in the making in southern Africa, proponents of this position argue, but there appears to be little the United States can do to avert it. Consequently, it is argued, the United States should wait until the dust has settled and a new situation has emerged before it tries to resume an active role.

But constructive engagement continues to be defended by supporters who see it as the most reasonable and moderate course, representing the best hope for promoting long-term stability and U.S. interests in southern Africa. Defenders of constructive engagement, though conceding a difficult course in prospect for the policy, ask if any of the alternatives can promise less cost and risk with greater benefits.

Raymond W. Copson is a specialist in international relations, Foreign Affairs and National Defense Division. This article is based on a CRS Report (Rept. No. 85-201F) of the same title.

[1]The President took this action as Congress seemed about to impose somewhat stricter sanctions. For further information, see Cooper, William. The Reagan Administration Sanctions Against South Africa: Their Potential Economic Impact. Congressional Research Service Report No. 85-955 E. September 18, 1985.

[2]For recent information on U.S. relations with South Africa, see CRS Issue Brief 85188, Sanctions Against South Africa, by Brenda Branaman.

[3]International Security and Development Cooperation Act of 1985 (Public Law 99-83, Sec. 813(b)). Economic aid, under the Act, is to be used for assistance to the private sector—and administered through non-governmental agencies—to the maximum extent practicable.

RITA ANN REIMER

LEGAL ANALYSIS OF THE RIGHT TO DIE

National attention first focused on the possible right of a terminally ill patient to discontinue life-sustaining medical procedures in a 1976 case, *In the Matter of Karen Ann Quinlan*.[1] In that case, the New Jersey Supreme Court upheld the right of a father to obtain a court order directing the withdrawal of life-sustaining medical devices from his comatose daughter.

The *Quinlan* case gave impetus to a movement, then in its infancy, which champions the right of the terminally ill to decline or discontinue "unnatural" efforts to prolong their lives. Starting with California in 1976, some 35 states and the District of Columbia have enacted so-called "right to die" laws, sometimes called "death with dignity" or "living will" laws, which statutorily grant this right under certain circumstances if specified procedures are followed. There is also a small but growing body of case law to this effect.

Right to die laws permit competent adults to execute "living wills," or declarations asking that their lives not be artificially prolonged following a medical determination that they are terminally ill or injured. These wills must be formalized in much the same manner as regular wills, although additional requirements are usually imposed to insure that the declarant is taking the action voluntarily.

For example, most such laws state that living wills cannot be witnessed by a relative of the declarant, anyone responsible for the declarant's medical care, anyone paying for that care, or anyone who would inherit under the declarant's will or otherwise benefit from his or her death. These and other precautions are thought advisable to minimize the possibility of coercion.

All right to die laws provide immunity to physicians and other health professionals who comply in good faith with the provisions of what appears to be a validly executed living will. Most also provide that death pursuant to such a will is not to be considered suicide for either criminal law or life insurance purposes, and that no person is to be required to execute such a document as a precondition for obtaining health insurance and/or medical care. A majority state that any such will is inoperative for the duration of a declarant's pregnancy, although this latter provision might be open to constitutional challenge during the early stages of a pregnancy.

At common law as carried into the laws of the United States, medical treatment was considered an invasion of bodily integrity which could only be legally administered if the patient had consented or emergency circumstances existed sufficient to justify its nonconsensual imposition. Otherwise, it constituted a battery for which those imposing it could be held liable in damages.

Inherent in this approach is the view that a person has the right to decline unwanted medical treatment. However, this right is not absolute, since the state has a conflicting interest in preserving life which it may assert against the patient's right to decline treatment. Thus a patient will ordinarily *not* be allowed to decline treatment if he or she has minor children, or other circumstances exist which are found by a court to be sufficient to supersede the patient's right in this context when all the facts of a particular case are considered.

That the nonconsensual treatment as battery theory remains valid in the absence of such compelling justifications was demonstrated most recently in the case of *Leach v. Shapiro*,[2] in which an Ohio appellate court held that continued treatment of a terminally ill patient, in knowing contravention of that patient's wishes, could be an actionable battery for which the physician or hospital could be liable in damages. The case against the physician was subsequently dropped, but the patient's estate settled with the hospital for an undisclosed amount.

Some recent cases base the patient's right to refuse medical treatment on the constitutional right of personal privacy, which was extended to include this right in the 1973 Supreme Court decision on abortions, *Roe v. Wade*[3] (in which it characterized abortion as strictly a medical procedure). However, cases decided on privacy grounds employ much the same sort of balancing test as do those which turn on the common law right to refuse medical treatment.

Although right to die laws by definition do not become operative until a patient's condition becomes terminal, most of the case law on the right to refuse medical treatment arises from situations where the patient's condition is considered treatable, i.e., where the refusal to accept treatment has at least the potential of making terminal a condition which would ordinarily not be. Many of these cases involve the refusal of medical treatment on religious grounds, since members of certain sects are prohibited by the tenets of their religion from receiving blood transfusions. In all of these cases the courts weigh the competing interests; and most of the reported case law requires the treatment to be administered over the patient's objection except when the patient is elderly, has no dependents, and suffers from a serious medical condition for which the treatment is unlikely to produce any prolonged or pronounced relief.

This situation changes when a patient is terminally ill, i.e., when medical treatment can only prolong life and cannot prevent death. In such cases, even in the absense of a living will or comparable document, courts are much more likely to accede to the patient's request that life-prolonging procedures be terminated. For example, there are several reported cases which uphold the right of patients suffering from amyothropic lateral sclerosis (ALS or "Lou Gehrig's disease") to have

The Supreme Court of the United States

their life support systems disconnected. ALS is a progressive, incurable, and terminal disease which causes progressive degeneration of muscle and motor ability, although the mind remains unaffected.

The issues become even more complex when a patient is incompetent, and his or her rights are asserted by a parent, guardian, or other person purporting to act on his or her behalf. If the patient is a minor, a court may substitute its judgment for that of the parents if it finds that the child's best interests will be served thereby. If the patient is an incompetent adult, an effort will be made to determine what the patient would have desired, if competent, as one component of the decision-making process.

To date, courts have split over whether it is necessary to obtain a court order on behalf of an incompetent terminally ill patient prior to discontinuing life-sustaining measures, although most have held that this is not necessary in the absence of some dispute between the caregivers and other interested parties. For example, in *In re Torres*,[4] the Supreme Court of Minnesota held that a court order was necessary to terminate life sustaining measures in the case of a comatose patient whose court-appointed counsel opposed this action, but noted that about 10 life support systems are disconnected each week in Minnesota, after consultation between the patient's family and physicians and approval by a hospital ethics committee, and said that its opinion should not be taken to require court orders in these situations.

Most supporters of the right to die concept and all the pertinent right to die statutes limit their support to passive euthanasia, not steps which would actively serve to shorten life. However, the Supreme Court of New Jersey recently established guidelines in a 1985 case, *In the Matter of Conroy*,[5] which guidelines authorize the discontinuation of nourishment (considered by many to be active euthanasia) from certain seriously ill patients. Claire Conroy was an 84-year-old nursing home patient who suffered from irreversible physical and mental impairments, was restricted to a semifetal position, could neither speak nor swallow, and was fed by a nasogastric feeding tube. However, she was not connected to a respirator or being kept alive by other "artificial" means, and there was no indication that her condition was imminently terminal. Even though the court held that nourishment could not have been withheld from Ms. Conroy under these guidelines (she died while the action was pending), its reasoning if widely adopted could significantly change the present state of the law in this area.

The guidelines turn primarily on the amount of discomfort suffered by the patient and, if possible, the determination of whether the patient would choose to decline feeding under these circumstances. The court's decision was based in part on its view that feeding of certain patients is itself part of the realm of complex, high-technology medical care, where nasogastric tubes, gastostomies, and intravenous infusions, rather than "eating" as that term is ordinarily defined, are the norm. Since such procedures can prolong life for years, as in the case of Karen Quinlan, who lived over 10 years after her respirator was disconnected, the court felt that patients and/or their parents or guardians should be allowed to discontinue nourishment in exceptional cases.

At the present time about all that is clear from a study of the pertinent case law is that much remains unsettled as to the scope and extent of the so-called "right to die." Additional statutory and case law will be required to spell out the rights and obligations of patients, their relatives and guardians, and physicians and other health care professionals in those states which have not yet adopted right to die laws, as well as in those cases where patients have not executed living wills even though their States have authorized their use.

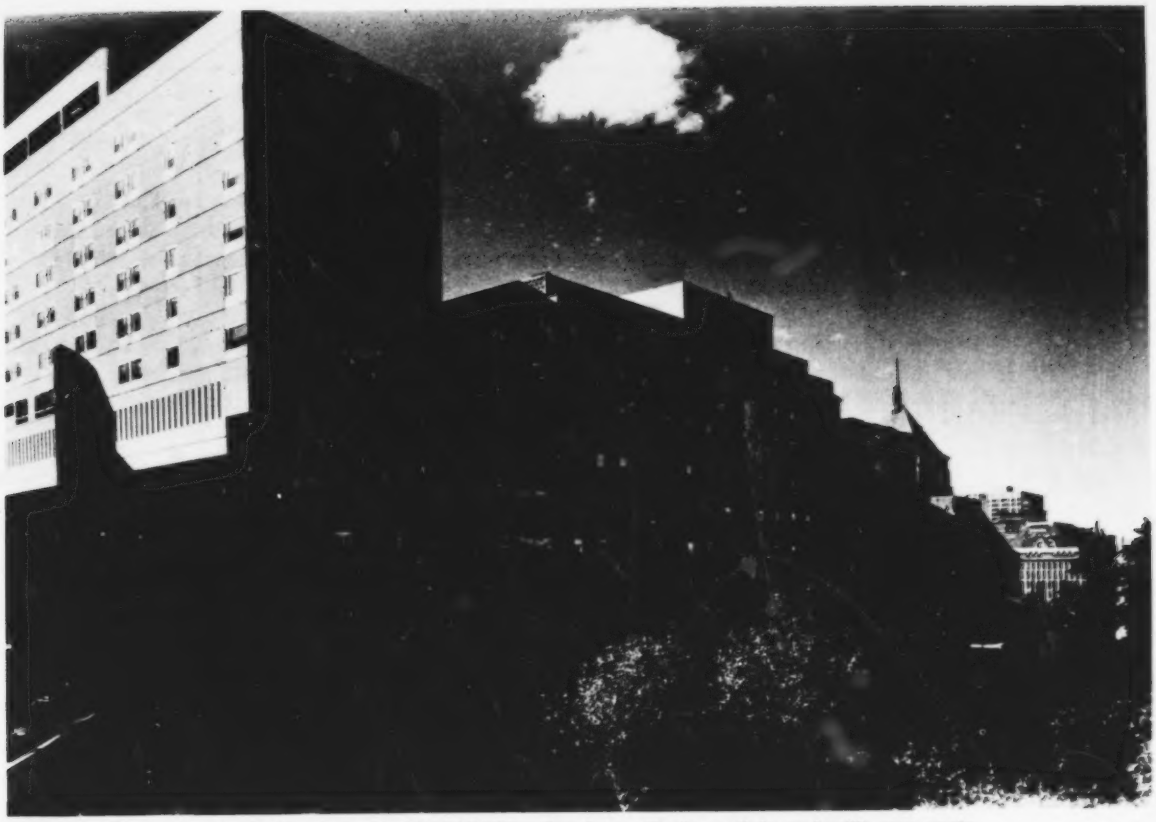
(Although this is difficult to track, there are few reported cases involving living wills, perhaps because this is still a relatively recent phenomenon but also because the purpose of executing such a will is to avoid the necessity of court intervention into what is seen as a personal decision.)

Also, as medical technology continues to advance, statutory and judicial guidelines will have to evolve as well, to reflect these new advances. However, there is no doubt that this practice is gaining wide acceptance among those who would prefer not to have their lives artificially prolonged on respirators or other life support systems once they have been diagnosed as terminally ill.

For additional information, see "Legal Analysis of the Right to Die," 85-222A, Revised Dec. 10, 1985, by Rita Ann Reimer

[1]70 N.J. 10, 355 A.2d 647, *cert. denied sub nom. Garger v. New Jersey*, 429 U.S. 922 (1976).
[2]13 Ohio App. 3d 393, 469 N.E.2d 1047 (1984).
[3]410 U.S. 113 (1973).
[4]357 N.W.2d 332, 341 n. 4 (Minn. 1984).
[5]98 N.J. 321, 486 A.2d 1209 (1985).

Rita Ann Reimer is a legislative attorney, American Law Division



Hospital of the University of Pennsylvania, Philadelphia—See future Review article on health care costs

Photo by Nevin R. Kishbaugh, Hospital of the University of Pennsylvania

Congress of Communist Party *(Continued from page 14)*

Gorbachev leadership to increase its influence throughout the Party apparatus.

CONCLUSION

The 27th CPSU Congress could go down in history as one of the Soviet Union's most important congresses. Mikhail Gorbachev will use the Congress to formally introduce a new collective leadership, present new political and economic programs to the nation and the world, and announce a new ideological dogma.

Gorbachev's accession introduced a process of generational change. The Congress may give additional impetus to this process of renewal, not only at the highest levels but throughout the Party and government bureaucracy.

If Gorbachev's first half year of rule are any indication, the 27th Party Congress is likely to provide many changes. With the renovation of the leadership and Party cadres, the adoption of a new Party Program and the implementation of Gorbachev's economic blueprint in the form of the 12th Five-Year plan, this Congress may set the course of Soviet policy for many years to come.

Michael Dixon is a consultant to CRS on Soviet and East European Affairs

[1]Foreign Broadcast Information Service. Soviet Union Daily Report. [Hereafter cited as FBIS-SOV] FBIS-SOV-85-079. April 24, 1985: R4.

[2]The full text of the draft was published in Pravda and is available in translation in: FBIS-SOV-85-208 [Supplement 007]. Oct. 28, 1985.

[3]Mikhail Nenashev, editor of Sovietskaya Rossiya said, "The program unites us Communists ideologically, and the statutes organizationally. The statutes are called upon to ensure the fulfillment of the program." Moscow News, no. 45, Nov. 10, 1985, p. 12.

[4]For an analysis of the Gorbachev takeover and his career, see: Archie Brown. Gorbachev: New Man in the Kremlin. Problems of Communism, v. 34, no. 3, May-June 1985: 1-23; Konstantin Simis. The Gorbachev generation. Foreign policy, no. 59, summer 1985: 3-21; Stuart Goldman. Leadership Change in Moscow: Implications for Soviet and U.S. Policy. Congressional Research Service, Library of Congress, Report 85-858F, August 1, 1985.

[5]On Ryzhkov, see, McNeill, Terry. Nikolai Ryzhkov—Gorbachev's New Economic Overlord. Radio Liberty Research, RL 146-85, May 8, 1985.

[6]Rahr, Alexander. A New Chief Ideologist in the Kremlin. Radio Liberty Research, RL 183/85, June 5, 1985.

[7]See, Elizabeth Teague. Shevardnadze Replaces Gromyko as Foreign Minister. Radio Liberty Research, RL 217/85, July 2, 1985; Elizabeth Fuller. A Portrait of Eduard Shevardnadze. Radio Liberty Research, RL 219/85, July 3, 1985.

[8]Rahr, Alexander. More Personnel Changes in the Offing. Radio Liberty Research, October 10, 1985, RL 341/85. And, Washington Post, January 26, 1986, p. A26.

[9]For a discussion of past party programs, see, Jan F. Triska, Soviet Communism: Programs and Rules. San Francisco, Chandler Publishing Company, 1962. p. 3-23; Leonard Schapiro, ed. The U.S.S.R. and the Future. New York, Praeger, 1962. The draft of the next program is available in FBIS-SOV-208 (Supplement 007).

[10]The first rules were adopted in 1898, and Party Congresses have frequently revised or amended them, or adopted entirely new rules. See, Leonard Schapiro. "The New Rules of the CPSU." In, Schapiro, The U.S.S.R. and the Future, pp. 178-180; also, Triska. Soviet Communism: Programs and Rules, p. 14-16. The current rules were adopted by the 22nd Party Congress in 1961, at the same time that the Second Party Program was adopted. These rules were amended by the 23rd Congress in 1966 and the 24th Congress in 1971.

Seminars

Inquiries 287-7904

Weekly on Thursday	INTRODUCTORY BRIEFING ON CRS RESOURCES, SERVICES, AND FACILITIES FOR MEMBER AND COMMITTEE STAFF. Room 209, James Madison Building. 10:00 to 11:30 a.m. Open to permanent Member and Committee staff only; not open to interns. Coordinator, Pat Clark, 287-6464.
Weekly	SCORPIO. Introductory training classes available at CRS. Individual refresher or advanced session available at either CRS or your congressional office. Open to Member and Committee staff. Call 287-6447 for an appointment.
March 11	HAZARDOUS MATERIALS TRANSPORTATION SAFETY: HOW CAN THE FEDERAL ROLE BE IMPROVED? Speakers from government, industry, and the environmental community will evaluate the effectiveness and efficiency of DOT's program for promoting the safe transportation of hazardous materials. Specific options to strengthen driver training and licensing requirements, Federal emergency response and training activities, assistance to State and local governments, and DOT inspection efforts will be presented. 9:00 am to 12:00 noon, West Dining Room, 6th floor, James Madison Building, The Library of Congress. Coordinator, Paul Rothberg.
April 3-4	ADVANCED LEGISLATIVE INSTITUTE. A two day program for graduates of the One-Day Legislative Institute. Includes sessions on raising measures for consideration on the floor, the amending process, resolving House and Senate differences, the legislative process in operation (with examples from the Congressional Record), and committee procedure. Hagerstown, Maryland. Coordinator, Jill Ziegler.

THE LIBRARY OF CONGRESS
CONGRESSIONAL RESEARCH SERVICE
WASHINGTON, D. C. 20540

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300